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# The Genesis of the Open Door Policy in China

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*Curtis Fellow in International Law and  
Diplomacy, Columbia University, 1919-1921;  
formerly Editor of The Far Eastern Repub-  
lic; President of The Chinese Political  
Science Association, 1919-1921.*


SUBMITTED IN PARTIAL FULFILMENT  
OF THE REQUIREMENTS FOR THE  
DEGREE OF DOCTOR OF PHILO-  
SOPHY IN THE  
FACULTY OF POLITICAL SCIENCE  
COLUMBIA UNIVERSITY

New York City

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## FOREWORD

Though complete by itself, this monograph constitutes but one fourth of a larger volume, which is soon to appear. As implied in the title, only the genesis of the Open Door policy in China is dealt with, and its later developments are reserved for treatment in the larger volume.

The author wishes to take this opportunity to express his gratitude to John Bassett Moore, Hamilton Fish Professor of International Law and Diplomacy, Columbia University, for his reading of the manuscript and for his numerous suggestions, without which this monograph will not be what it is.

G. Z. W.



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## CHAPTER I

### Introduction

FOR the past twenty-five years there is nothing in the politics of the Far East that has loomed larger or more frequently been the subject of discussion among the statesmen and diplomats of Asia, of Europe, and of America than the so-called "Open Door" policy in China; and yet in all the history of international relations nothing has been so much misunderstood, so lightly tossed about, or subjected to such variant and often contradictory interpretations, as this catch-phrase of the stock-in-trade terminology of European, American, and Japanese diplomacy in the Chinese Republic. What is the Open Door policy? How did it originate? What are its underlying motives? To what extent is it efficacious? These are questions which are seldom, if ever, propounded. Much of the discussion on the subject proceeds on premises that are undefined, inaccurate, and often false; and, in spite of the great importance professedly attached to the policy, and in spite of the multitude of international agreements and understandings entered into by the European Powers, Japan, and the United States with the avowed object of maintaining it, it is today, to all intents and purposes, little more than a diplomatic fiction, to which the chancelleries of Europe no less than the Gaimuscho (Foreign Office) of Tokyo pay scant respect.

Popularly, but very erroneously, the Open Door policy has been regarded as having some kinship or analogy to the Monroe Doctrine of the United States.

Among writers and speakers on Far Eastern questions it has indeed become the fashion to attribute to the United States the origination of the policy, on the supposition that it was first formulated by Mr. John Hay, in notes which, as American Secretary of State from 1898 to 1905, he addressed, on two occasions, to Japan and to the European Powers. Nothing, however, is further from the truth, for "it is admitted that neither the idea of the 'open door' nor the principle which it denotes originated in the United States."<sup>1</sup> The United States did not originate the policy, nor was Mr. Hay's proposal in fact accepted by all the Powers to whom his notes were addressed. As an international commercial principle of the Western Powers in China, the rule of the Open Door had, without specific mention of it, been guaranteed by the most-favored-nation clauses contained in almost all the commercial treaties between China and the foreign Powers, and had been respected and applied by them, either in their dealings with one another or with China, long before Mr. Hay assumed the office of Secretary of State of the United States. As a political or diplomatic formula, the Open Door bore a family resemblance to the "policy of co-operation," which sought to "substitute fair diplomatic action for force," and which the Western Powers had, at the suggestion of Mr. Anson Burlingame, the author of the policy, long ago adopted in their relations with China. The inference has often been drawn that, as Mr. Hay was at one time President Lincoln's private secretary, and as he was personally acquainted with Mr. Seward's policy in China, the proposals and the principles found in his two circular notes were suggested by, or even might

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<sup>1</sup> John Bassett Moore, *Political Science Quarterly*, March, 1917, p. 123.



be "based upon," the Chinese-American treaty of 1858 and Mr. Burlingame's doctrine of co-operation and fair play.<sup>2</sup> At any rate, it may be presumed that Mr. Hay would never have penned his two diplomatic circulars, one on September 6, 1899, and the other on July 3, 1900, had not the frenzied struggle for spheres of interest or influence and for territorial concessions in China by the European Powers in 1897-1899, and the subsequent outbreak of the Boxer Rebellion in 1900, combined to threaten, not only the rule of equal commercial opportunity, but even the territorial integrity of the country. What Secretary Hay actually did, was to revive, through the exchange of diplomatic notes, the traditional principle of equal treatment embodied in the most-favored-nation clauses, which the foreign Powers, particularly Great Britain and the United States, had formerly respected in their economic and commercial enterprises in China, and which the regime of spheres of interest and leaseholds necessarily tended to nullify.

But, while an old principle was recalled to life under a new name, it is a fact that in the controversy over the so-called "Open Door" policy we find an epitome of international politics in the Far East during the last twenty or more years. Although it is true that Secretary Hay did not originate the policy, it is equally true that it was only after he had reminded the world of its previous existence that it became the paramount issue of Far Eastern politics. His first circular note to the European Powers and to Japan served as an alarm-bell which awakened the governments of three continents to the serious danger that was menacing the continued and

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<sup>2</sup> F. M. Anderson and A. S. Hershey, *Handbook for the Diplomatic History of Europe, Asia, and Africa, 1870-1914*, p. 245.

peaceful observance of the traditional principle of equal commercial opportunity in China. His second circular note was a frank declaration, though in a language none too specific, of the American attitude and policy towards China at the most critical juncture of her life. It was fortunate that the tocsin rang at the time—at the psychological moment, when the world at large was beginning to forget the benefits and advantages of the Open Door principle, and when the European Powers, in their struggle for leases of territory and for spheres of interest or influence, were ready to discard it altogether. Still more fortunate was the fact that the disinterestedness of the United States and the absence on her part of any ambition for territorial gains in China made it possible for her to command a respectful consideration by the European Governments of the case which she chose to represent. It is true that the acceptance of Mr. Hay's definition of the policy was, in the case of one or two Powers, not only conditional and qualified, but highly ambiguous and evasive; and that consequently, the practical result of his diplomatic representations, as far as those Powers were concerned, was quite dubious and hardly discernible at the time. Upon the public opinion of the world, however, the moral effect of his representations was immediate and electrifying. There was an instant and unanimous approval in the press of the world. In the United States, indeed, and in China as well, Mr. Hay was enthusiastically acclaimed, in a spirit of extravagant panegyric, as the father of the Open Door policy and the savior of the Chinese Empire.

To this view, exaggerated though it be, the world has since held; and it is the Open Door policy that has, in one form or another, been at issue in all the inter-

national questions in the Far East. No matter what takes place internationally, it is discussed under that title. Whether it is a concession by the Chinese Government for the construction of a railroad, or a Japanese demand for the sole right to open the iron or coal mines in this or that province of China; whether it is the attempt by the United States to organize a new international banking consortium, or the persistent demand by Japan for the exclusion of Manchuria, Mongolia, and Shantung from the consortium's sphere of operation, it is always reducible to a question in which the principle of the Open Door can be said to be involved. Indeed, no event of any international significance takes place in the Far Eastern political world that is without some bearing, in one way or another, upon this all-embracing principle, whatever it may be taken to mean. It is, therefore, quite within the bounds of truth to say that the term "Open Door" covers the entire range of international political activities in the Far East during the past two decades. A study of the one is a study of the other.

The prominence lately given to the Open Door policy is, however, largely due to its failure. Except for the repeated infractions of the policy by Powers pledged to its maintenance, little would have been heard of it. The Anglo-German Agreement of 1900, the Franco-Japanese Convention of 1907, the Anglo-Japanese Alliance treaties, the Russo-Japanese conventions, and the Root-Takahira and Lansing-Ishii "agreements"—all admitted landmarks of Far Eastern politics, professing the maintenance of the Open Door policy as their object, have contributed little indeed to the accomplishment of that end. Why should there be an eternal reiteration, it may be asked, of the simple principle

which Japan, the United States, and the leading Powers of Europe have all pledged their honor to maintain? In time of peace, no one cries for peace. He does so only when peace is menaced or actually disturbed. The same thing may be said of the Open Door. If it were faithfully maintained by the foreign Powers in China either in their dealings with each other or with China, there would be no need of international agreements or special understandings on the subject. It is only when the principle is transgressed or openly violated that they find it necessary to reaffirm it. "As for the famous and frequently discussed Open Door in China, what of it?", asked an American diplomatist who went to the Orient in order to study the Far Eastern question at first-hand. This was his answer. The Open Door, he pointed out, "has never existed, does not today exist, and never will exist except in such parts as are completely under the control of an international consortium. Instead of an Open Door, China possesses a series of Side Doors, of 'Family Entrances,' difficult to enter save by merchants belonging to the commercial family of the foreign Power dominating that district."<sup>3</sup>

How far this is true, it remains to be seen; but, after a careful study of the history of the past twenty years, the conclusion is irresistible that, in spite of the diplomatic halo with which the Open Door policy is usually invested, it is today, as ever before, more fictitious and less real than has generally been supposed. Although so constantly discussed in the press of the world, and so often embodied in international agreements and understandings, the true meaning of the principle has nevertheless remained

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<sup>3</sup> Charles H. Sherrill, *Have We A Far Eastern Policy?* p. 280.

to a large number of Powers a political riddle. Like the Delphian oracle, whose utterances meant different things to different inquirers, the Open Door policy has connoted very different ideas to the different Powers professing it in principle. It is hard to say whether Powers have intentionally or unintentionally misinterpreted the principle, but a careful and thorough study of the history and development of the policy has convinced us that, with the single possible exception of the United States, every other Power pledged to the policy insists on its maintenance only when it suits her interest to do so. It is almost twenty years since Dr. Paul S. Reinsch, American Minister to China from 1913 to 1919, made the observation, which still holds true today, that the foreign Powers in China had not the slightest scruple in playing fast and loose with their plighted word. "Never has it been more true," said Dr. Reinsch, "that treaties are simply a statement of existing facts." "Treaties concluded with China, and treaties framed with regard to China, are simply an index to the present position and power of the various governments who are parties to the respective agreements. Wherever an opportunity or a plausible pretext to disregard the treaties offers itself, or wherever a Power feels that the rival nations are so occupied with other matters as not to be able to insist upon the enforcement of their treaty rights, the promises and arrangements contained in treaties will have very little restraining influence on political action."<sup>4</sup>

While it is obviously impossible to attempt to specify all violations of the Open Door policy, an effort will be made to give concisely the attitudes of the different Powers who have either professed

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<sup>4</sup> Paul S. Reinsch, *World Politics At the End of Nineteenth Century*, p. 175.

respect for the policy or declared it to be the cardinal principle of their diplomacy in the Chinese Republic. By so doing we can gain a bird's-eye view of the past and the present of the Open Door policy, and possibly a fleeting glimpse of its future.

First of all, let us ask what was the attitude of Russia. It is necessary to bear in mind here that the present-day Russia is not the same Russia of the pre-war days, and that the views and policies of the present-day Russia are widely different from those of the old Russia as day is different from night. It is only with the latter, however, that we are most concerned in our investigation. To the old autocratic Russia—to the Russia of czars and Romanoffs, the Open Door policy meant, if it meant anything at all, an equal opportunity for the foreign Powers to extort concessions from China. According to the statement ascribed to Count Sergius Witte at the Portsmouth Conference, the Russian definition or interpretation of the policy was that "no rights which were acquired lawfully from China within a limited space of her territory, and which did not exclude a third party from securing similar advantages from her, could be considered a monopoly, or a violation of the principle of equal opportunity."<sup>5</sup> In other words, with Russia the Open Door meant neither the administrative independence and territorial integrity of China nor equal economic opportunity for all nations, but freedom to acquire leaseholds, "spheres of interest or influence," and other political concessions in

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<sup>5</sup> George H. Blakeslee, *China and the Far East*, Clarke University Lectures, 1910, p. 325. Count Witte was reported by his private secretary at the Portsmouth Conference to have said: "I have nothing against the so-called Open Door policy, about which the Americans make such a fuss." J. J. Korostovetz, *Pre-War Diplomacy: The Russo-Japanese Problem*, p. 12.

China, so long as they "did not exclude a third party from securing similar advantages." The Open Door policy as thus understood would encourage setting up new spheres of interest or influence and would eventually lead to new battles for concessions. For, any Power could extort whatever she pleased from China, without at the same time "excluding a third party from securing similar advantages," be they economic, commercial, political, or territorial. In other words, China could be dismembered provided all the Powers could have a hand in the partition! This is the Russian understanding of the Open Door policy, in accordance with which the Czarist Government had apparently conducted its sinister diplomacy in China.

Tied hard and fast to the wheels of Russian diplomacy and equally ambitious in her politico-economic designs in China, France cherished no greater respect for the Open Door policy than did her Czarist ally. More polished in manner and more suave in language, France, like Russia, has created for herself an unenviable reputation, which would discount her professions for the Open Door at hundred per cent. Thus, M. Delcassé, one of the best known French Foreign Ministers, was generous in words when they could be used to allay the suspicions of the diplomatic world about French ambitions in China. France did not desire, he said, "the break-up of China, which is perhaps spoken of without reflection." She was merely "anxious for the maintenance of the equilibrium in the Far East."<sup>6</sup> These are brave words, uttered at the time when the "Sick Man" of the Far East

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<sup>6</sup> John Bassett Moore, *International Law Digest*, Vol. V, pp. 482-3. These words are taken from a speech which M. Delcassé made in the Chamber of Deputies, July 3, 1900, on the Chinese situation.

was proposed for dissection. But, as a matter of fact, what was the policy of France in regard to China then, and what has it been since? Words do not always square with deeds, as Colonel Roosevelt was wont to say, and certainly French ambitions in China did not square with the objects of the Open Door policy. The junior partner in the Franco-Russian combination had, before the outbreak of the European War in 1914, a political program in the South of China, which was no less ambitious than that of her ally in the North. The aims and aspirations of France in Yunnan and Kwangsi conflicted most violently, not only with the interests of other Powers, but also with the fundamental concepts of the Open Door. "The ambition of France, though continuous in intention, is spasmodic and incoherent in action, Its motive is political and antagonistic, not commercial and peaceful. Commerce is merely the stalking horse."<sup>7</sup> Indeed, it was too much to expect that, being bound to Russia by political and financial ties, France would not play the game hand in glove with her diplomatic partner. M. Delcassé admitted this when he said in reply to a question which Sir E. Monson, British Ambassador at Paris, put to him: "From the outset of the trouble in China France and Russia had gone hand in hand, and it was hardly necessary, therefore, to add that France approved the declaration of policy made by Russia, and adopted it as far as it was applicable to French interests."<sup>8</sup>

In close resemblance to the attitude of Russia and France towards the Open Door in China was that of Germany. The first Power to initiate the struggle for

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<sup>7</sup> Archibald R. Colquhoun, *China in Transformation*, p. 328.

<sup>8</sup> *China*, No. 1, 1901, No. 280.



territorial leases and among the first to engage in the battle for concessions, Germany had little or no claim to be a worshipper of the Open Door policy. Her attitude was well defined by Prince Bulow, when he said in a speech in the Reichstag: "Mention has been made of the partition of China. Such a partition will not be brought about by us at any rate. All that we have done is to provide that come what may, we ourselves shall not go empty-handed. The traveller cannot decide when the train is to start, for the moment when the train is to start does not depend upon the will of the passenger. It is his business to see that he does not miss it. The devil take the hindmost."<sup>9</sup> And later on another occasion, the Chancellor of the former German Empire, was reported to have said, with his usual gaiety: "We do not in the least want to have an extra helping of the China pudding, but we ask for the same helping which the others get."<sup>10</sup> Now, it must be admitted that, frank as were these official utterances they were not frank enough to admit the responsibility which was clearly Germany's. It was the seizure by Germany of Kiao-chow Bay and its surrounding territories that set the tune of foreign aggressions in China. Whether she travelled as a "passenger" or as a conductor, she was the very first to get on the train, and let "the devil take the hindmost." And although she did not have an extra helping of the China pudding, she certainly had just as much as the others had. It would be a travesty of fact if Germany should choose to pose as the champion of the Open Door policy, and her sincerity in

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<sup>9</sup> Parliamentary Debates, April 29, 1898, pp. 1564-1565. The same is cited by Paul S. Reinsch, *World Politics*, p. 164.

<sup>10</sup> The London Times, March 3, 1902.

the matter was sorely tested when she entered into the so-called Anglo-German Agreement of October 16, 1900, which was aimed at the Russian activities in Manchuria at the time. Chancellor Von Bulow had to go back on his own words, when he explained to the Reichstag that the said agreement had nothing to do with Manchuria, where the maintenance of the Open Door policy was of no interest to Germany.<sup>11</sup> This repudiation could mean only that the Open Door policy would be maintained in those parts of China where Germany had special interest and where the maintenance of the policy would operate to her benefit and not to her disadvantage.

What the Open Door policy has meant to Japan, is a question to which no answer has ever been given. It is perhaps due to the complicated relations between China and Japan that the question is not so easy to answer as it is to ask. History records, however, the different international agreements which Japan has entered into with the Western Powers, either for the altruistic purpose of maintaining the peace in the Far East, or for the well pronounced and well advertised purpose of maintaining the Open Door policy and the territorial integrity of China! The Anglo-Japanese Alliances, the Franco-Japanese convention, the Russo-Japanese treaties, the Root-Takahira "agreement," and lately the Lansing-Ishii "agreement," are part and parcel of the paraphernalia which the Japanese statesmen and diplomatists have used in their international performances in regard to the maintenance of the Open Door policy in China. Without examining into the intentions and motives that were behind these international agreements, the persistence on the part

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<sup>11</sup> K. Asakawa, *The Russo-Japanese Conflict*, pp. 156-161.

of Japan in pledging herself, and the other contracting parties as well, to the maintenance of the Open Door policy in China appears to be admirable at first flush. But, keeping in mind the Japanese conduct in Manchuria, in Fukien, and in Shantung, and remembering indeed the whole course of diplomatic relations between Japan and China since the Russo-Japanese War, one is at a loss to say whether Japan has understood the Open Door policy rightly or wrongly. The policy which Japan has pursued in China is certainly not that of the Open Door. "While paying lip service and formal homage to the principle of the Open Door and equal opportunity," it was observed by an American student of international politics, "Japan is rapidly developing a policy of her own in respect to China—a policy with which she feels that we have no right to interfere."<sup>12</sup> And this policy, as far as can be made out in the light of Japan's conduct in China, is one which is diametrically opposed to the principle of equal economic opportunity for all nations. In other words, with Japan the Open Door means an open door for herself. What she has undertaken to maintain in China in so many international agreements and undertakings is a fiction, pure and simple. No one knows better than her own statesmen and diplomatists that it is contrary to Japan's established interests and imperialistic designs, either to carry the principle into practice herself or to demand respect for the principle by the other Powers. The course of events as recorded in the history of Chino-Japanese relations of the last two decades furnishes ample proofs of this fact.

The attitude of Great Britain is more

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<sup>12</sup> Amos S. Hershey, *Modern Japan*, pp. 342-343.

interesting but less definite. Subject to changes and reversals owing to the whims and fancies of the different persons in charge of the Foreign Office, and balanced by considerations of her interests in European politics, the policy of Great Britain as concerns China is one of opportunism, as changeable as the September sky. In one instance, we see a Great Britain who was generous in sharing with other Powers whatever commercial and economic privileges that she might get in China; in another we see a Great Britain who, disregarding the benefits and advantages of the principle of equal treatment, was eager to claim for herself concessions from which other Powers would be absolutely excluded. Protestingly that her objects in China were commercial and not territorial, and holding that the independence and integrity of China should be maintained, Great Britain was nevertheless a follower of the doctrine of spheres of interest or influence, which would in the very nature of things defeat the object that she had in view. Determined as she apparently was, at the time when the international scramble menaced British interests in China, to preserve intact the rights and privileges that were hers, she was nevertheless unready and indisposed to do anything that would in the least hurt the feeling of aggressive Russia or voracious Germany. If we should ask whether Great Britain favored the continuance of the old status—that which was based upon the most-favored-nation clauses in China's commercial treaties, the answer would be in the affirmative, for it was she who looked upon the Tientsin Treaty "as a sort of heaven-sent document, eternal and immutable," for the simple reason that the said treaty contained the most favored nation treatment for Great Britain in China; if we

should ask whether Great Britain favored the Open Door policy—the policy which seeks to maintain the independence and integrity of China and equality of economic opportunity for all nations, the answer would be also in the affirmative, for it was her own nationals and her own diplomatic representatives abroad who were strongly for the Open Door policy, the maintenance of which would be, as they clearly saw, greatly beneficial to their own commercial interests in China. On the other hand, if a diametrically opposite question were raised—whether or not Great Britain was in favor of the régime of spheres of interest or influence, the answer would be at once “yes” and “no.” Great Britain, to be accurate, could not be said to be in favor of the spheres of interest régime. Her most distinguished statesmen had, one after another, gone on record that they, and the Government they represented, were strongly opposed to dividing China into “water-tight compartments.” Yet at the same time, the very fact that Great Britain leased Weihai-wei for as long a period as Russia would hold Port Arthur, and that she earmarked the Yangtze Valley as her own sphere of interest, showed most clearly that, while she was not in favor of the régime, she was not exactly opposed to it. The same is true of her attitude regarding the maintenance of the Open Door policy. Undoubtedly, Great Britain was strongly in favor of the Open Door if for no other reason than that the policy would operate to the benefit of the British commercial interests in China. She was, however, always ready to compromise with it, to disregard it, and sometimes to violate it, in spirit if not in letter, either to suit her own particular interest in China, or to meet political and diplomatic exigencies which often con-

fronted her in view of her alliance with the most designing Power of the Far East. Indeed, the policy of Great Britain in China, influenced always by consideration of her interests elsewhere in the world, has been, at least for the last score of years, most uncertain and most changeable. Coming down from the lofty pedestal of the most favored nation treatment, of which she was the chief builder, and passing through the Open Door, on whose threshold she lingered awhile, Great Britain finally arrived at the position where stood Russia, Germany, Japan, and France more than twenty years ago, and where, with the exception of Germany and Russia, they stand today. The question may, then, be legitimately raised: What has been the Chinese policy of Great Britain for the past score of years and what is it today? Or has Great Britain ever had a well-defined policy with respect to China? It is not easy to answer either of these questions, although a correct answer to each will go a long way to clear up the British attitude on the Open Door policy.

It remains now but to consider the attitude of the United States—the only Power whom we have singled out as a respecter of the Open Door policy in deeds as well as in words. Speaking very briefly, the United States, as far as her policy towards China is concerned, stands very high in the opinion of the world, and what is more, in the opinion of the Chinese. Ever since the days when Caleb Cushing was sent out to Canton as the first American Minister to China, the relations between the two countries have been most cordial; and they would have been uniformly so but for the fact that the difficulties arising out of the immigration question gave birth to a certain amount of ill feel-

ing among both peoples. While it is difficult to say whether the American note of September 6, 1899, which Secretary John Hay addressed to Japan and to the European Powers, was prompted by considerations of American commercial interests in China or by anxieties for the independence and integrity of the Chinese Empire, it is always easy to see that the United States, unlike the other Powers, has never cherished any ambition or desire for leasing, holding, or acquiring Chinese territories. "The policy of the Government of the United States," it was pointed out by Secretary Hay, "is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly Powers by treaty and international law, and impartial trade with all parts of the Chinese Empire."<sup>13</sup> From this policy, which was in its essence announced by Anson Burlingame in 1867, when he was commissioned by the Chinese Government as the first representative of China to the Western world, the history of Chinese-American relations of close to a hundred years contains not a single deviation. The United States may therefore be accepted as a zealous champion and defender of the Open Door, her attitude towards China having in this regard been as uniform and consistent as that of Great Britain has been changeable.

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<sup>13</sup> U. S. For. Rel. 1200, p. 299.

## CHAPTER II

### The Opening Up of China

ONE of the most interesting chapters of the history of the relations between East and West is the "opening up" of China. Being the oldest country existing in the world, boasting as she has a right to do so of a civilization that long antedates the Christian era, and occupying 437,000,000 square miles of territory, nearly one-third of the Asiatic continent, and possessing a wealth of natural resources that is practically unsurpassed and a population generally estimated at one-fourth of that of the entire world, China could easily have been one of the leading Powers of to-day, if she had not confined herself for hundreds of years in political and economic seclusion and thus cut herself off from the rest of the family of nations. Without taking into consideration China's early intercourse with the West,<sup>1</sup> or even the comparatively recent efforts in the seventeenth and eighteenth centuries of some of the Western Powers to establish commercial and diplomatic relations with her,<sup>2</sup> it must be said that she was not in any sense "opened up" until 1842 when, because of the Opium War, British cannon battered down her walls of isolation and seclusion. It is difficult to say whether the policy of non-intercourse, or "closed door" policy, which China had followed for hundreds of years had really worked to her benefit or

<sup>1</sup> Henri Cordier, *Histoire Generale De La Chine et De Ses Relations Avec Les Pays Etrangers Depuis Les Temps Les Plus Anciens Jusqu'a La Chute De La Dynastie Mandchoue*, 3 Vols.

<sup>2</sup> S. W. Williams, *The Middle Kingdom*, Vol. II, Chapter XXI, pp. 406-462.



to her detriment. It is difficult, because we are not at all sure that, in view of the deplorable conduct of the Western Powers as shown especially in their avaricious struggle for economic and political concessions and in their continuous fight for the monopoly of the Chinese trade each for her own nationals, China would have been any better off even if she should have been "opened up" much earlier than she actually was. We must realize that China, as a nation, had been at first freely open to foreign intercourse, and that she was later forced to resort to seclusion as the only wise alternative in the face of the unsatisfactory conduct<sup>3</sup>

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<sup>3</sup> "Sporadic diplomatic missions from the nations of modern Europe began about A. D. 1500 and continued to the establishment of permanent relations. The French first appeared in China A. D. 1506; the Portuguese followed them in A. D. 1516; the Spaniards in A. D. 1575; the Dutch in A. D. 1624; the Russians in A. D. 1689, and the British in A. D. 1793. With the exception of the Russian and British embassies, the conduct of all these messengers of amity, good-will and commercial intercourse was such as befitted pirates rather than peaceably disposed men, and it went far to justify the Chinese Government in its policy of rigid seclusion from all association with Europeans." Chester Holcombe, *The Real Chinese Question*, p. 179. This opinion was supported by all authorities on the history of early intercourse between China and the Western Powers. Even Sir Robert K. Douglas, a critical writer on China and the Far East, had to admit in a still stronger language that the conduct of the early traders in China, not excepting the British and the Russians, was really "infamous." "They outraged every law and set the feelings of the people (Chinese) at defiance. They refused to submit to the native authorities, and on one occasion in revenge for one of their number having been cheated by a Chinaman they sent an armed force into a neighboring village and plundered the natives, carrying off a number of women and young girls." Robert K. Douglas, *Europe and the Far East*, p. 11.

As to the general attitude of defiance on the part of the foreigners in China towards Chinese authorities, Dr. V. K. Wellington Koo made this observation: "A want of regard for Chinese laws characterized the foreigners who went to China in the seventeenth and eighteenth centuries. They were either adventurous or desperate characters, and with the exception of a few missionaries, they were animated by the sole desire to seek fortune in a new land. It mattered little what the territorial laws required and what they

of the early European traders, for the Government of which she was in lack of an adequate system of law and of courts. It is, therefore, not easy to say whether the "closed door" policy had worked to her benefit or to her detriment, although we are on the fairly safe ground when we say that the "closed door" policy which she had followed for hundreds of years saved her from political disintegration on the one hand, and, on the other, denied her all the possible advantages of contact with Western civilization that might, as in the case of Japan, contribute much towards qualifying herself as a full-fledged member of the family of nations.

The "opening up" of China has been the gradual work of nearly one hundred years. While it is true that she had maintained early intercourse with the West, it is equally true that that intercourse was neither formal nor regular. The visits of European missionaries to the Chinese capital and the early efforts of the Portuguese and the Dutch to open up trade relations with China brought about nothing but a ripple, which did not even disturb the calm waters of Chinese seclusion. Even the attempts by the Czar of Russia, the King of France, and the King of England to establish trade and diplomatic relations with China by the despatch of special missions and envoys to the Chinese capital in the seventeenth and eighteenth centuries absolutely failed to accomplish their cherished purpose. It was true that in 1828, owing to the wreck of a French vessel on the coast of Cochin-China and

prohibited; they came on a mission to replenish their purses and were prepared to leave as soon as their object was accomplished; in their opinion, it would have been disloyal to themselves to allow their conduct to be shackled by laws of which they knew nothing, and about which they did not care to know anything."—V. K. W. Koo, *The Status of Ailens in China*, p. 64.

the subsequent massacre by the natives of her crew, *France*, by dint of threat of war, succeeded in obtaining from the Chinese Government what she had long desired—the right to station a consul at Canton, then the only port in China where foreign trade was tolerated. This concession on the part of the Chinese Government, however, did not mean the opening of China to foreign trade or intercourse. Nor could the appointment of a British superintendent of trade at Canton in 1834 be taken as the beginning of the new commercial era.<sup>4</sup> China was not in any sense “opened up” until in 1842 when, by virtue of the provisions of the Treaty of Nanking which concluded the Opium War, she had to let down the bolt across her doors and throw them open to foreign trade, residence, and intercourse. It is unnecessary here to go into the details of the Opium War, its causes and its effects, about which opinions differ very widely. It is, nevertheless, pertinent to say that the conclusion of the Treaty of Nanking, inasmuch as it was intended to serve as “the charter of commercial rights in China,” could not fail to be marked as the first step in the “opening up” of China to Western intercourse. According to the terms of the Treaty,<sup>5</sup> China had to cede to England the Island of Hongkong where the British subjects could “caren and refit their ships when required and keep stores

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<sup>4</sup> It should be remembered that in 1834 the Chinese Charter of the East India Company, which permitted it to carry on trade with the Hong merchants at Canton, expired. The British Government decided not to renew it, but to place the British trade with China under the care of a superintendent. Lord Napier was accordingly appointed the first trade superintendent in Canton, “to protect and foster the British trade there, to endeavour to obtain markets in other ports of China, and to seek an opportunity of establishing direct communication with the Court at Peking.”

<sup>5</sup> Hertslet's *China Treaties*, Third Edition, Vol. I, pp. 7-12.

for that purpose;" to pay an indemnity of \$21,000,000, twelve millions to meet the cost of the war, three millions to pay for the debt due by Chinese to British merchants, and six millions to compensate for opium seized and destroyed by the Chinese authorities at Canton before the outbreak of the war; and what was still more, to open five ports, Canton,<sup>6</sup> Amoy, Foochow, Ningpu, and Shanghai, to British trade and residence, with permission for British consuls to reside at each. The treaty was signed on August 29, 1842, and it was ratified on June 26, 1843. The British fleet that took part in the war was immediately withdrawn from the Chinese waters after the ratifications were exchanged. The first British consuls appointed to the ports thus opened to foreign trade proceeded to take up their duties without delay, and in these ports the land required for the settlements for the British merchants and for the erection of business houses and factories was given them by the Chinese Government. It was in this manner that the British gained a legitimate and early foothold in China. Before the conclusion of the Treaty of Nanking, British merchants, like the merchants of other nationalities, traded in Canton by sufferance. After the conclusion of the treaty, they carried on their commerce and trade in China by right. Who could dispute, then, that the Treaty of Nanking was the Magna Charta of Great Britain's commercial rights in China? Who could deny that the said treaty was the first instrument which served to open up China commercially?

The Opium War was, however, only the first frontal attack on the towering citadel of Chinese seclusion. According

<sup>6</sup> Canton was not opened to foreign residence until April 6, 1849. By the Convention of April 4, 1846, and that of April 6, 1847, the British Government consented to this delay.

to Dr. W. A. P. Martin, the well-known sinologue, the opening of China was "a drama in five acts," of which the Opium War was but the first. Although the exact number of acts was immaterial, the opening of China was indeed nothing short of a "drama"—a political drama, but full of human interest. It should be observed, however, that the circumstances in which China was forced to throw open her doors could not be said to be fortunate. "With nations no less than individuals, the nature of their mutual relations will depend largely upon the circumstances under which their acquaintance began." "It was most unfortunate that the use of force was necessary to the establishment of foreign relations with China?"<sup>7</sup> The history of China's relations with the West since the Opium War goes far to prove the general truth of the statement. No one would deny that the opening of China "was not a gradual evolution from within," but that "it was the result of a series of collisions between the conservatism of the extreme Orient and the progressive spirit of the Western world."<sup>8</sup> It is no wonder, therefore, that every act in the drama has culminated in an international armed conflict.

The second act in this grand drama, in which the breaking down of the walls of seclusion is pictured, was the "Arrow" War of 1856 to 1860. The conflict was so named after the vessel, the

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<sup>7</sup> Chester Holcombe, *The Real Chinese Question*, p. 251. He also said: "It may safely be claimed that to knock a man down is not the surest path to his high esteem, and that to kick open his front door will not guarantee an invitation to dinner." "What the Chinese will believe, to the end of time to have been the real motive for the use of force renders it substantially impossible to hope for any cordiality upon their part, in intercourse or relations with the nations of the Western world."

<sup>8</sup> W. A. P. Martin, *The Awakening of China*, p. 149.

seizure of which by the Chinese authorities at Canton was at once the cause and the occasion of the war. The "Arrow" was a small vessel, commonly called "lorcha," manned and owned by Chinese, and engaged in illicit traffic, which was the ground for seizure by the Chinese authorities. As the vessel was registered in England, however, and as she was sailing under the British flag, Sir Harry Parkes, then British Consul at Canton, demanded her release and insisted that the whole matter should be settled at the British Consulate. The refusal of the Chinese authorities was seized upon as the *casus belli*, and under this pretext Great Britain waged another war upon China. "The matter was a serious one and immediate reprisals were necessary," observed one English writer on the subject. "Sir Michael Seymour, the Admiral on the station, was communicated with and promptly entered the river and captured the forts without loss." "The Canton forts were taken on the 28th October, 1856. The Chinese fleet was destroyed in the following month, and the bombardment of the city commenced immediately."<sup>9</sup>

The war so easily begun could not be so easily ended. The Chinese fleet was destroyed, the Canton forts were captured, the city itself was taken, and even Commissioner Yeh was sent to Calcutta a prisoner. In short, the Chinese were badly beaten, but they were still able to continue the struggle. The British forces, now supported by the forces under Baron Gros, the French Admiral, attacked the Taku forts, which fell an easy prey. For two years the war dragged on, in which the diplomats and the Admirals alternately occupied the centre of the stage. Upon the

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<sup>9</sup> Alexis Krausse, *China in Decay*, pp. 128-129.

fall of the Taku forts, Lord Elgin began negotiations with the Chinese Government, which resulted in the conclusion on June 26, 1858, of the well-known Treaty of Tien-tsin. The terms of the treaty included, among other things, the renewal of the Treaty of Nanking, the toleration of Christianity in China, the payment by the Chinese Government of a war indemnity, the revision of the existing tariff, and the right of the British subjects to travel in all parts of China. The most important articles of the treaty, that had a vital bearing upon the opening of China, were those which provided for the right of the Contracting Parties for the exchange of diplomatic representations, and for the opening of five more ports to foreign trade and residence. Article XI of the treaty opened Newchwang, Tangchow (Chefoo), Taiwan, Swatow, and Kiungchow (Hainan) to foreign trade, where the British subjects should "enjoy the same privileges, advantages, and immunities at the said towns and ports as they enjoy at the ports already opened to trade, including the right of residence, of buying and renting houses, of leasing land therein, and of building churches and hospitals and cemeteries."<sup>10</sup> It was a matter of interest that among these five ports, Tien-tsin, the most important port of entrance in North China, where the treaty was drawn up and signed, was not included. According to Dr. W. A. P. Martin, who served as interpreter to the Honorable W. B. Reed, the American Minister, and who enjoyed therefore, the best of opportunities for observing what actually went on behind the scenes in the negotiation of the treaty, it was the wish of Lord Elgin, the British Minister, that Tien-Tsin should not be thrown open to foreign

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<sup>10</sup> Hertslet's China Treaties, 3rd Ed., Vol. I, p. 23.

commerce, "because in that case it would be used to overawe the capital" of China.<sup>11</sup>

The conclusion of the Treaty of Tien-tsin brought about only a temporary relief. The war was destined to go on yet for another couple of years. Early in March, 1859, Sir Frederick Bruce, the British representative appointed for the purpose of exchanging ratifications of the treaty, was denied admission to the Chinese capital, and his passage on Peiho River was blocked. The British representative, insisting that the exchange of ratifications must take place in Peking, appealed to Admiral Hope to force the entrance. Thus war broke out again, but this time it proved to be even worse for China. Tung-chow was easily taken, Peking was captured, and Emperor Hienfung fled to Jehol. And Admiral Hope, "finding it impossible to pursue the fugitive," but "determined on giving the Chinese an object lesson which they would not be likely to forget," gave the memorable order,<sup>12</sup> on October 18, 1860, for the destruction of the beautiful Summer Palace! The order was carried out to the letter, and the Summer Palace was accordingly seized and set on fire. The unsightly ruin, outside of the West Gate of the Chinese capital, is an irresistible reminder today of the way in which Great Britain and France forced open China's door. After such reverses, China could only submit and the ratification of the Treaty of Tien-tsin was finally exchanged on October 24, 1860, in the "Hall of Ceremonies," between Lord Elgin and Admiral Hope on the one side, and Prince Kung on the other. And on the same day, a new Convention of Peace and

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<sup>11</sup> W. A. P. Martin, *The Awakening of China*, pp. 165-166.

<sup>12</sup> Alexis Krausse, *China in Decay*, p. 131.



Friendship between China and Great Britain was signed at Peking. Among other things, it provided for the cession of Kowloon, which was formerly held by Great Britain on a perpetual lease, and for the opening of Tien-tsin to foreign trade. "It is agreed," the fourth Article of the Peking Convention reads, "that on the day on which this Convention is signed, His Imperial Majesty the Emperor of China shall open the port of Tien-tsin to trade, and that it shall be thereafter competent to British subjects to reside and trade there under same conditions as at any other port of China by treaty open to trade."<sup>18</sup> Thus by demanding Tien-tsin as a treaty port, Lord Elgin reversed his own opinion of two years before.

With the ratification of the Treaty of Tien-tsin the stage was set for next act in the drama, the actual scene of which took place, not in any of the treaty ports where the foreigners frequented, but in an inland city, thousands of miles from the coast, where they had never set foot before. The usual title of the act is "The Murder of Margary;" the place is Manwyne in Yunnan Province, and the date is February 21, 1875.

The commercial rights and privileges secured under the Treaties of Nanking and Tien-tsin gave a great stimulus to foreign intercourse and led to a considerable increase both in the number of foreign merchants in China and in the volume of trade which they carried on. Canton, Ningpu, Amoy, and Foochow, four of the ports opened under the Treaty of Nanking had rapidly developed into centres of considerable foreign trade, and Shanghai, which remains today the most important treaty port in China because of its favorable geo-

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<sup>18</sup> Hertslet's China Treaties, 3rd Ed., Vol. I, p. 50.

graphical location, had out-stripped them all. In view of this gradual opening up of the coast provinces to foreign intercourse, and in view of the decidedly better understanding to which the foreign traders in China were coming with the natives, the British merchants, who were in most cases commercial pioneers and frequently more enterprising and more ambitious than the merchants of other nationalities, turned their eyes on the rich inland provinces hitherto unexploited. As far back as 1820, British authorities and merchants in India contemplated the opening of a direct trade route between India and China through Burma and the back-door of Yunnan Province. Different attempts were made for this purpose, but none led to anything definite. In 1874, encouraged by the rights of the British subjects to travel "to all parts of the interior," as provided for in the Treaty of Tien-tsin, the British authorities in India, with the cordial support of the merchants there and in China, decided to send an exploring expedition to make surveys and to report on the prospects of the opening up the desired trade route from India and Burma into the Chinese province of Yunnan. Sir Thomas Wade, then British Minister in Peking, readily obtained from the Chinese Government the permission for this exploring expedition in accordance with Article IX of the Tien-tsin Treaty. "These preliminaries being arranged, it was decided that in order to assure the success of the expedition, it would be well for some person acquainted with the country to be traversed, as well as with the people and the language, to accompany the expedition."<sup>14</sup> Accordingly, Mr. Augustus Raymond Margary, a member of the British Legation in

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<sup>14</sup> Alexis Krausse, *op. cit.*, p. 154.

Peking and a master of the Chinese language, was instructed to proceed to meet the exploring party on the Yunnan border (on the Burmese side) and to conduct the party back to the Yunnan province. Mr. Margary was very well received by the local authorities and was given every consideration and courtesy on his outward journey. On January 16, 1876, he safely reached Bhamo, where he found the Indian expeditionary party awaiting him. When he was about to conduct the party into China, choosing the route that leads from Bhamo to Manwyne in Yunnan, he was warned of impending trouble and strongly urged to delay his advance. It was said that the Kakyen tribe, which inhabited the mountainous regions on the borderland, and over which the power of the local Chinese officials was meagre, was determined to prevent the passage of the expedition. Unconvinced of the seriousness of the danger confronting him and his party, but emboldened by the fact that he had, on his outward journey, come safely through the Kakyen Hills, unarmed and almost unattended, Margary volunteered to go in advance of the expedition to ascertain the truth of the report. With a few attendants he started on what proved to be his fatal mission on the 19th of February, and two days later his life was taken by the hill-men, who, mustered in force, threatened to attack the entire party and forced its final retreat.

The death of Margary was, indeed, a matter of serious international import. While it was undoubtedly true that over the savage tribes in the mountains on the Yunnan borderland the local Chinese authorities had little or no control, the fact that Margary was a member of the British Legation in Peking, that he was given a special permission by the Chinese Government for his trip, and that he was

supposedly traveling under Chinese protection, made it difficult for the Peking Government to deny responsibility for the crime. Had Great Britain so chosen, the murder might have been made a legitimate *casus belli*. Sir Thomas Wade, while prepared to use the occasion to great advantage, did not resort to force immediately for a settlement. At first, he suggested a joint commission for investigation. This failed to accomplish its purpose. Being unable to obtain satisfaction from the Chinese Government, the British Minister left the capital as a preliminary step to the cessation of diplomatic relations between China and Great Britain. The British fleet in Eastern waters was communicated with, and steamed into the Gulf of Pechili. This demonstration, which might or might not mean a threat of war, but the Chinese Government immediately sent Sir Robert Hart of the Chinese Maritime Customs Service to Shanghai to induce him to return. This Sir Thomas Wade refused to do, but he agreed to meet at Chefoo any accredited representative of the Chinese Government to discuss the terms of a settlement. Accordingly, Li Hung-chang was appointed to conduct the necessary negotiations, and a satisfactory arrangement was soon reached. It was embodied in the Chefoo Convention of September 13, 1876.

In spite of the fact that it remained unratified for about ten years (the ratifications were exchanged at London, May 6, 1886), the Chefoo Convention, in view of its numerous provisions that had a good deal to do with the rights and privileges of the foreigners in China, undoubtedly constituted another land-mark in the history of her opening up. The Convention included among its provisions monetary compensation (200,000 taels) to the Margary family; the opening of the fron-

tier trade between Burma and Yunnan; the despatch of a Chinese embassy to London (which turned out to be a permanent one); the drawing up of a "code of etiquette" to be observed in official intercourse at Peking, and of new rules of procedure for the British courts in China; the opening of I-chang, Wu-hu, Wen-chow, and Peihai (Pakhoi in Kwangtung) as treaty ports and consular stations; and the opening of Tatung, Anking, Hukow, Wu-suh, Luchikou, and Sha-shih as ports of call.<sup>15</sup> The Chefoo Convention also provided for the right of residence of British officers at Chungking to watch the conditions of British trade in the Szechuan province, although at the same place British merchants would not be permitted to reside or to open establishments and warehouses, so long as no steamers could have access to the port. The Convention also authorized the despatch of a British mission of exploration to Thibet through a route to be decided upon later. Aside from these main provisions, there were a few other minor concessions, which would serve to improve the trade relations between China and the treaty Powers.<sup>16</sup>

Without question, the settlement of the Margary affair was a triumph of peace. In view of the large number of concessions that the Chinese Government made in the Convention and that meant much in the opening up of China, commercially and politically, it is safe to say that re-

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<sup>15</sup> Ports of call are different from treaty ports. Ports of call are places of trade in the interior, where, as they are not treaty ports, foreign merchants are not legally authorized to open business houses. While foreign steamers are allowed to touch "the ports of call" for the purpose of landing or shipping passengers or goods, this must be done "in all instances by means of native boats only, and subject to the regulations in force affecting the native trade."

<sup>16</sup> For the details of the Convention, see Hertslet's China Treaties, Vol. I, pp. 73-80.

dress by peaceful means of international grievances is by no means less fruitful in salutary results than that by force, to which the Powers, in their dealings with China in the past, were ever ready to resort. The Margary incident, fortunately, was not made an excuse for war; but even if war should have been waged against China once again, the settlement could not have been more satisfactory, and the results might not have been quite so substantial.

While Great Britain was thus having difficulties with the Chinese Government owing to the killing of Margary, which was the net result of the British attempt to open up a trade route from India to Yunnan, France was essaying somewhat the same scheme at almost the same time and in almost the same direction. In 1862, France acquired the province of Saigon at the mouth of the Mekong River, which was then popularly taken as a highway into China Proper. Two years later, the whole kingdom of Annam was made virtually a protectorate of France. When it was discovered that the Mekong River was not navigable and therefore without value as a highway into China Proper, the French were disappointed, but not daunted. They found another stream, the so-called Red River, which flowed across the Chinese border into Yunnan and was, therefore, deemed quite as valuable for the purpose of extending the French trade into the interior of China. Eager to use this newly discovered stream as a high road to the wealthy districts of interior China the French, in 1874, entered into a new treaty with the Court of Huc, annexing the kingdom of Annam. But the French had omitted one important factor from their calculations. They made no allowance for the fact that Annam, through which they were seeking a direct route

of trade to the interior of Yunnan province, had been for centuries a dependency of China. It was, therefore, perfectly natural that the annexation was viewed by China with great displeasure. China protested, but in vain. In 1881, Marquis Tseng, Chinese Ambassador in Paris, declared formally that the Chinese Government repudiated the treaty of Huc of 1874. This repudiation France refused to acknowledge. Curiously enough, in 1882, Annam declared war on France. In the year following, defeated by the French, she had no choice but to "recognize and accept the protectorate of France." War between China and France was now within measureable distance. And it was truly said that "if the aggrieved party had been any other country but China, war must have followed. But China was not prepared for war; and verbal protests were the only overt measures which she was prepared to adopt."<sup>17</sup> On May 11, 1884, the so-called Fournier Convention was concluded at Tien-tsin between Li Hung-chang and Captain Fournier, Commander of a French man-of-war, whereby China was to withdraw her garrison from Tonking and to respect treaties between France and Annam, while France was to respect and to protect Chinese frontiers in the neighborhood of Tonking.

Although intended to avert an armed conflict between China and France, this preliminary convention proved to be but a step towards the outbreak of the Franco-Chinese War. Misunderstandings and difficulties soon arose in regard to the withdrawal of the Chinese garrison from Tonking, for which no date was specified in the Fournier Convention. The French forces advancing to take possession of the city soon came to blows with the Chinese.

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<sup>17</sup> Robert K. Douglas, *Europe and the Far East*, p. 227.

France protested against what she claimed was an infringement by China of the Fournier Convention, while the Chinese Government was equally indignant because the French had apparently broken the treaty by attacking the Chinese garrison at Tonking. War broke out, in the course of which it was China's usual fate to suffer severe reverses. The Chinese fleet was seized in the Min River, Foochow was captured, the arsenal there was destroyed, Kelung was taken, and Formosa was blockaded. At length, again through the good offices of Sir Robert Hart, preliminary arrangements for peace were agreed upon at Peking on April 6, 1885. The definitive treaty of peace was signed at Tien-tsin on the 9th of June following. It was agreed, among other things, that China was to recognize all the treaties concluded between France and Annam, that China and France, within six months after the signature of the treaty, were to appoint commissioners to delimit the Chinese-Annamese frontier, and that China was to give permission for trade to pass the frontier, either through Mengtze in Yunnan or through Lungchow in Kwangsi, where customs stations were to be established by China and consular agents were to be appointed by France. Aside from these concessions, France was also given the right to construct railways on the Yunnan border.<sup>18</sup> Other commercial privileges were provided for in the two additional treaties between China and France, one signed at Tien-tsin, April 25, 1886, and the other at Peking, June 26, 1887, in which questions regarding transit dues, passports, opium traffic, the most favored nation treatment, and the opening of Lung-

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<sup>18</sup> For a full account of the War and the negotiations, see Henri Cordier, *Histoire des Relations de la Chine avec les Puissances Occidentales*, Vol. II, pp. 242-575.



chow, Mengtze, and Manhao to foreign commerce were settled.

Judged by its results, the Franco-Chinese War of 1884-1885 contributed very little towards the eventual opening of China. The war could not be considered as an important act in the drama that was rapidly unfolding before us. The terms of the Treaty of Peace registered nothing but the *status quo ante bellum*, which, in fact, was already recognized by China in the Fournier Convention. Whatever other privileges and rights, which France obtained and which served to open up China still further, were provided for in the two additional commercial treaties, which, strictly speaking, were not the direct results of the war.

Almost ten years had elapsed before the curtain was raised on the fifth act in the drama. This time it was Japan who occupied the centre of the stage. The Chino-Japanese War broke out in 1894 as a result of serious misunderstandings and rival claims over Korea between the two countries. Owing to her geographical position, "the Land of Morning Calm" had been for ages the arena of conflict between her ambitious neighbors. Strictly speaking, Korea was a Chinese dependency—a status which she had occupied for hundreds of years, and which Korea herself had acknowledged. In 1876, however, Japan recognized the independence of Korea, and having recognized the independence, Japan claimed to have an equal voice in Korean affairs. In 1883, there was a serious outbreak against the Japanese in Seoul, including the Japanese Legation staff. The riot was so serious that China, as the suzerain Power, had to despatch forces to the scene in order to restore order and maintain peace. At the same time, Japan also despatched troops to Seoul to demand reparation—indeed, a

novel procedure of dealing with a country whose independence Japan had purposely recognized. Thus the armies of the two countries were, for the first time, brought face to face under the walls of the Korean capital. In December, 1884, another insurrection broke out against the Japanese in Seoul, who, because of their sinister efforts to secure a predominating position in the kingdom, were none too popular with the natives. China, as the suzerain Power, again rushed her forces to the scene, upon the appeal of the Korean Government. On the other hand, acting as she did before, Japan sent another expeditionary force to Seoul, with the purpose of remaining there indefinitely. Thus, the armies of the two countries, each claiming control in Korean affairs, were once again brought face to face in the Korean capital. The situation was critical, for the two countries found themselves right on the brink of war. But war was averted at the last moment by the conclusion on April 18, 1885, of the Treaty of Tientsin, which, as a *modus vivendi*, provided, among other things: "In case of any disturbance of a grave nature occurring in Korea, which might necessitate the respective countries or either of them to send troops to Korea, it is hereby understood that they shall give, each to the other, previous notice in writing of their intention so to do, and that after the matter is settled they shall withdraw their troops and not further station them there."<sup>19</sup>

Now, it has been asserted again and again that it was a breach of this understanding by the Chinese Government in the suppression of the Tonghak revolt in Korea in 1894, that served as the immediate cause of the outbreak of the Chino-

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<sup>19</sup> Hertslet's China Treaties, Vol. I, pp. 361-362.

Japanese War. Never was an assertion so misleading and so much contradicted by the known facts. The truth is that when the Korean Government failed to suppress the Tonghak revolt, the King, in accordance with the established practice, appealed to China, the suzerain Power, for help. In despatching Chinese troops to Seoul, due notice of the fact was sent to the Japanese Government, which, after giving a corresponding notice to China, despatched a *corps d'armee* to Korea in all haste.<sup>20</sup> It was frankly admitted that "in having recourse to military aid, China's nominal purpose was to quell the Tonghak insurrection, and Japan's motive was to obtain a position such as would strengthen her demand for drastic treatment of Korea's malady."<sup>21</sup> For this reason, therefore, Japan continued to keep her forces in the vicinity of Seoul, and refused to withdraw them, although the Tonghak revolt, for the suppression of which the troops of both countries were sent, had died of inanition. The Chinese Government expressed its willingness to withdraw concurrently with the Japanese, but the latter absolutely declined to do so until the Korean Government should have adopted such drastic reforms as Japan desired. Greatly alarmed lest his country should become the theatre of war between China and Japan, the King of Korea solicited the help of the diplomatic representatives of the other foreign Powers in Seoul. In response to the King's request, the foreign diplomats submitted to both China and Japan the proposal for a si-

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<sup>20</sup> Despatches between the Chinese and Japanese Governments on the Korean affair before the commencement of hostilities were laid by Count Ito before the House of Peers on the 19th of October, and were given in the Japan Mail of the 22nd of October, 1894. The same can also be found in Vladimir, *The China-Japan War*, Appendix B, pp. 338-348.

<sup>21</sup> Captain Brinkley and Baron Kikuchi, *A History of the Japanese People*, p. 700.

multaneous withdrawal of the Japanese and Chinese troops. The Japanese declined the proposal. Being now satisfied that Japan was actually contemplating war, the King of Korea, in his desperate strait, appealed to the United States to intervene in favor of peace. The Chinese Government also urged the United States to lead the way and to unite the European Powers in a joint request to Japan to withdraw her military forces in Korea to save any armed conflict. To all these representations, however, the Japanese Government remained impervious. Under these circumstances, China had no choice but to send reinforcements to Korea to protect her own position there. On April 25, 1894, the transport *Kowshing* with some twelve hundred Chinese soldiers on board was fired on, and before anything could be done to save the lives aboard, the vessel went down practically with all her crew and passengers. This act precipitated hostilities. On August 1, 1894, war was declared by both countries.<sup>22</sup>

It may also be said, in passing, that there was another cause for the outbreak of the war, which generally escapes the attention of the students of Far Eastern politics: the desire of the Japanese Government to avert a constitutional crisis at home by resorting to an armed conflict with China. Ever since the Japanese Constitution came into operation in 1890, there had been continuous collision between the parliament and the executive. Within a short span of four years, three parliaments were "elected" and all of them were prematurely dissolved. In the beginning of the month of July, 1894, when the Korean situation became threatening, Japan was on the eve of an-

<sup>22</sup> U. S. For. Rel. 1894, Appendix I, pp. 23-39. For a concise account of the efforts of mediation, see John W. Foster, *American Diplomacy in the Orient*, pp. 332-337.

other parliamentary election. Count Ito, the veteran statesman of Japan, and then Minister President of the country, decided to play a trump card, "the strongest that could possibly be played." "There is little doubt that for some time he had looked to a war with China as a possible solution for the Japanese constitutional difficulty, for Ito is a man who sees a long way ahead, and knows the Chinese, as well as his own countrymen, thoroughly. The strength or rather the weakness of the Middle Kingdom, had doubtless long before been accurately gauged by the astute and penetrating Japanese Minister President." Thus, we are told, by July, 1894, his mind was fully made up on two points: "In the first place, he must have been quite persuaded that a successful war with China would quell the domestic ferment in Japan, even as Neptune quelled the waves with his *quos ego*; while about the success of a war with China he could have been in no possible doubt."<sup>23</sup> It was quite possible that owing to this determination on the part of Count Ito to solve the constitutional question at home by waging a successful war abroad, that the Japanese Government persistently refused to withdraw Japanese troops from Korea.

With the details of the operations of the conflict we are not concerned here. It is sufficient to say that the war was another demonstration of the absolute weakness of China, for, within a few months after the commencement of hostilities, the Chinese fleet was wiped out, Port Arthur was captured, Wei-hai-wei was taken, Japanese troops practically overran South Manchuria, and Peking itself was in danger. This series of disasters induced the Peking Government

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<sup>23</sup> The Japanese Constitutional Crisis and the War, *The Contemporary Review*, October, 1895, pp. 457-476.

to make overtures for peace. The first two missions, one headed by Mr. De-tring of the Chinese Customs Service and another by Chang In-hoon, proved all futile, as neither of these envoys was given plenipotentiary powers. Finally, Li Hung-chang was appointed to proceed to Shimonoseki to negotiate peace, which was concluded on April 17, 1895. By the terms of the Treaty of Peace, China was to recognize the independence of Korea, to cede to Japan the Liaotung peninsula, Formosa, and the Pescadores, to pay an indemnity of 200,000,000 taels, and to open Shashih, Chungking, Soochow, and Hangchow to the trade and residence, industries and manufactures of Japanese subjects, "under the same conditions, and with the same privileges and facilities as exist at the present open cities, towns, and ports of China." It was also provided that the right of steam navigation on the Yangtze River, on Woosung River and on the canal was to be extended to vessels under the Japanese flag. The ratifications of the Treaty were exchanged at Chefoo, May 8, 1895, but owing to the representations of Russia, Germany, and France, one important modification of the terms of the Treaty was made. In place of the cession of the Liaotung peninsula, an additional indemnity of 20,000,000 taels was to be paid by China. This change was agreed upon by both parties.

Here we have the story of the opening up of China, which has been said to be "a drama in five acts." To this drama an epilogue has to be added in order to make it complete. The outbreak of the Boxer Revolt in 1899, which was the logical sequence of the rapid unfolding of events of the past sixty years, furnished the necessary theme. Without going into the details of the event, it is sufficient to say that the revolt was a strong reaction

against the foreign influences and aggressions, which were fast undermining the political, social, and religious structure of the country. It was an organized movement in connection with "the Society of the Boxers," which first arose in the Shantung province and rapidly spread to the other provinces in the north. Its motive was a patriotic one,<sup>24</sup> as its avowed purpose was to defend China from foreign aggressions. The move-

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<sup>24</sup> The best interpretation of the Boxer movement was given by an American writer, who, for many years, served first as Interpreter and then as Secretary of the American Legation in Peking and finally as *Chargé d'Affaires*. He said: "The habit of repression paves the way for grudge and grievance to be held and cherished in secret. These may exist and grow for years unsuspected beneath the bland and expressionless face of the Chinese, until some trifle, perhaps quite unconnected with the original complaint, brings the crisis and lets loose the storm. The Boxer movement must be explained in this way. To reach its source, one must go back sixty years, to the very beginning of any intercourse or association between Chinese and foreigners. To understand its power and momentum, the anti-foreign feeling, originated then, must be traced as it spread throughout the empire, and studied as it was fed by one incident after another, aggravated by a thousand mutual misunderstandings and genuine causes of complaint, deepened by actual and imaginary attacks upon the integrity and independence of the nation, broadened and widened by offensive airs of patronage and superior wisdom and inexcusable acts of injustice and wrong, until this feeling reached the danger point at the close of the war with Japan. Then followed shortly thereafter the occupation of two small areas of Chinese soil by Great Britain, and one each by Russia and Germany (and France). Still, the repressed anger made no sign. But the hypothecation of a native tax to secure the payment of the indemnity promised to Japan, or, as the Chinese regard it, the diversion of their money to the payment of Japan for an unprovoked and inexcusable attack upon their country—this apparently simple and routine business act furnished the friction which generated the electricity which let loose the whirlwind. Thus the Boxer movement! It represents the wrath and hate of sixty years' growth. It is the more violent because of these long years of repression. And it receives the hearty sympathy of many millions of Chinese who have taken no active part in it. For, beyond a doubt, it represents to them a patriotic effort to save their country from foreign aggression and eventual dismemberment."—Chester Holcombe, *The Real Chinese Question*, pp. 56-57.

ment attained dangerous proportions in the fall of 1899 and reached its climax in the siege of the foreign legations in Peking. They were not relieved until August 14, 1900, when the allied forces, about 20,000 strong, reached Peking. In the ensuing negotiations for the settlement, the moderating influence of the United States exerted itself. The United States was desirous that China should not be impaired in her territorial integrity, nor be weakened in her ability to maintain a stable government. While she supported measures needful to punish the guilty parties and to guarantee the protection of American citizens and interests for the future, she also strove to further "the interests of the whole world in the cause of equal and impartial trade with all parts of the Chinese Empire."<sup>25</sup> The twelve demands drawn up by the allied Powers and presented to the Chinese representatives on December 24, 1900, were accepted *in toto* on January 16, 1901. This unqualified acceptance by the Chinese representatives marked the end of the long story of the opening up of China and the beginning of a new chapter of her friendly relations with the foreign Powers.

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<sup>25</sup> Rockhill to Hay, November 30, 1901. See J. B. Moore, *A Digest of International Law*, Vol. V, p. 529.



## CHAPTER III

### The Early Practice of The Open Door Principle

**S**YNCHRONOUS with the opening up of China to foreign trade and commerce was the introduction into practice of the principle of equal economic and commercial opportunity, which came to be known at the end of the nineteenth century as the Open Door policy. It may sound very strange indeed that long before the days when the term "Open Door" was heard of and long before the days of John Hay, to whom the origination of the policy has usually been attributed, there had been a principle which, in practice, was essentially the same as, if not more comprehensible than that which was later espoused by the Secretary of State of the United States, and which was made, still later, the subject of a multitude of international understandings and agreements. It is nevertheless a fact, undisputed and undeniable, that the Open Door policy, without being actually so called, was as old as the history of the opening of China, and had been observed in practice ever since the days when foreign trade with China began to be regulated by treaty provisions. In saying this, it should be clearly borne in mind that the Open Door policy is but a principle which seeks to establish economic and commercial opportunities equally for all nations in China. But this principle has found an early expression, as comprehensible as, but more comprehensive than, the Open Door, in the most favored nation treatment, which was provided for in all the commercial treaties between

China and the foreign Powers. The principle of the most favored treatment means that what is enjoyed by one nation in China, in regard to commercial and economic privileges, is to be enjoyed by all. In other words, all the trading Powers in China could enjoy equal economic and commercial opportunities in the country. Call it, therefore, what one pleases, the Open Door, the most favored nation treatment, or any other diplomatic catch-phrase, the principle is there. "We must first call attention to the importance of the most favored nation clauses in the various treaties formerly concluded between China and foreign Powers," said Dr. Reinsch. "The upholding of this clause is a necessary condition of the policy of the Open Door."<sup>1</sup> Now, in order to trace the history of the principle, it is necessary to go back to the days when foreign intercourse with China was not yet placed on the conventional basis.

In those days of informal intercourse, when Western traders carried on their activities in Canton by sufferance rather than by right, there was no equal opportunity to speak of. On the contrary, there was constant bickering among the foreign traders themselves. Swayed by jealousy, avarice, and the desire to gain the most, the Dutch, the Portuguese, and the English, who had frequented Chinese shores and had made "big money" from the natives, each sought to monopolize the trade and exclude every other who might come along and seek to have a hand in it. In this struggle for the monopoly of China trade, one was just as bad as the other. Neither the English, nor the Portuguese, nor the Dutch hesitated or blushed to resort to slandering, conspiracy, and intrigue, for

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<sup>1</sup> Paul S. Reinsch, *World Politics*, p. 175.

the purpose of excluding the other competitors from the field and thereby securing for himself a monopoly of the trade. It was a matter of record that when Captain Weddell, in command of a fleet of five merchant vessels of the British East India Company, reached Canton in the summer of 1637, for the purpose of negotiating for commercial rights and privileges, the Portuguese in Macao so beslandered the Captain and the English merchants in general, "reporting them to be rogues, thieves, beggars and what not," that the Chinese authorities decided absolutely to have nothing to do with them and requested their immediate departure from Chinese waters. This wilful misrepresentation by the Portuguese before the Chinese authorities at Canton in 1637 as to the character and motives of the British traders in general and Captain Weddell in particular was attributed to the fact that the Portuguese, in so doing, sought not only to injure the commercial opportunities of the British in China, but also to avenge what they considered to be a cardinal wrong, which the British had inflicted upon them a few years ago. It may be recalled that, in 1619, the English and the Dutch East India Companies entered into a commercial alliance of defence, which was "arranged after much diplomatic negotiation on the part of their Governments."<sup>2</sup> The purpose of the alliance was to force the Chinese to trade with the British and the Dutch merchants, and with them alone, and the two Companies would employ their fleet to carry out the purpose they had in view. At such a combination, the Portuguese, whom it sought to exclude, would very naturally take umbrage, and it was no wonder, therefore, that they

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<sup>2</sup> A. J. Sargent, *Anglo-Chinese Commerce and Diplomacy*, p. 3.

should avail themselves of the first opportunity to make revenge upon the British. On the other hand, the Dutch, selfish and faithless as were all the other foreign merchants in China, appropriated all the trade to themselves, quite regardless of the protests and interests of their English allies. It was for this reason that, when the Dutch fleet was attacked and beaten by the Portuguese off Macao in 1622, three years after the conclusion of the commercial defensive alliance, the British did not lift a hand for its rescue. In short, selfishness, avarice, intrigue, conspiracy, and double-dealing of all sorts characterized the attitude and the conduct of all the early foreigners in China, and this fact helped to create in the minds of the Chinese authorities a just contempt, not only for foreign commerce and trade, but also for those who were ostensibly its apostles and were actively engaged in promoting it. It was, therefore, not at all unnatural or unreasonable that China, for hundreds of years, should have pursued a "closed door" policy in preference to an unrestricted and free intercourse with the West.

But this was not all. Even among the English-speaking peoples themselves, the Americans and the Englishmen, such brazen disregard of mutual rights and interests in China was not unknown. As late as 1812, when Great Britain and the United States were at war over neutral rights and the "impressment" of American sailors on the high sea, the American trade in the Chinese waters was practically wiped out by British men-of-war. "It appears," said John W. Foster, at one time Secretary of State of the United States, "that the far-away waters of China were no more exempt than those of the Atlantic from the high-handed violence and disregard of mari-

time rights by Great Britain, which brought on the War of 1812." The state of affairs was so bad and the British went so far to realize their aims that sailors were taken from American ships even under the neutral flags and in neutral waters. The commander of the *Doris*, a British warship, took as "prisoners of war" the passengers and the crew of a Boston vessel "under the Chinese flag and in Chinese waters." "This action of the *Doris*, in cruising off the port of Canton and seizing American ships in Chinese waters, gave great offense to the local authorities, who ordered the man-of-war to leave, saying that if the English and Americans 'had any petty squabbles' they must settle them between themselves and not bring them to China. Upon a refusal of the *Doris* to depart, all trade with the British merchants was temporarily suspended. The American consul not only complained of the bad conduct of the commander of the *Doris*, but he reports that it was 'equalled by the pusillanimous conduct of the governor of Macao,' who allowed that port to be made a base of operations for the British to prey upon American commerce."<sup>3</sup>

Fortunately for China, and fortunately for the Western Powers, however, such cut-throat competition among the foreign traders along the Chinese coast, and contemptuous disregard of the rights of the territorial sovereign, were not to continue indefinitely. These practices were the order of the day when the foreign trade at Canton was not regulated by treaty provisions, and when each and every foreign merchant struggled to keep the field open to himself and closed to the others. In other words, in those days the merchants had no more thought

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<sup>3</sup> John W. Foster, *American Diplomacy in the Orient*, pp. 39-40.

of equal opportunity than they had respect for the law of China. With the conclusion of the Treaty of Nanking, August 29, 1842, which secured for the British in China a legal status never before enjoyed by them or by any other foreign merchants, a new commercial era may be said to have arrived, which was more or less free from the "selfishness, avarice, intrigue, conspiracy, and double-dealing of all sorts" of the pre-conventional days. Heretofore, foreign residence in China was not permitted, for trade at Canton was conducted on sufferance, and the foreigners had in China no *locus standi* to speak of. Even consuls were not recognized in any way by the Chinese authorities before the conclusion of the Treaty of Nanking, and they were not allowed to remain on Chinese territory at or in the vicinity of Canton. Like the merchants, supercargoes, and other trade agents, they had to go to Macao, a piece of Chinese territory under Portuguese administration, where they could reside with the express permission of the Portuguese Government.<sup>4</sup> Now, with the conclusion of the Treaty of Nanking, the situation was entirely changed. The Treaty not only opened Canton, Amoy, Foochow, Ningpo, and Shanghai to the trade and residence of British subjects, but also recognized the right of the British Government to appoint at each of the above cities superintendents or consular officers. This con-

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<sup>4</sup> One Mr. Catchpool, who had served as the Chief Supercargo of the British East India Company, was commissioned, in 1699, as "the King's Minister or consul for the whole Empire of China and the adjacent waters." Major Samuel Shaw of the United States was appointed as early as January 27, 1786, the first American consul to Canton. As he was not permitted to remain on Chinese territory, he had to go to Macao, where he continued his residence for about ten years. For a brief account of the manner in which the trade at Canton was carried on in those days, see Foster's *American Diplomacy in the Orient*, pp. 32-40.

cession from the Chinese Government practically reversed the position which the British together with the other foreigners had formerly occupied. What was theretofore denied to them as mere privileges was now given them by the treaty provisions as legal rights. Truly said was it, that the Nanking Treaty of 1842 served as a charter of British commercial rights in China.<sup>5</sup>

More significant was the fact that, together with the conclusion of the Treaty, which practically inaugurated a new commercial era for the British in China, was also introduced into general practice, somewhat unconsciously, the commercial principle that was in essence the principle of the Open Door policy of today. This new principle was technically known as that of the "most-favored treatment," which was understood to secure equal commercial and economic opportunity in China for all the nations of the world. It is true that in the treaty itself, nothing could be found to support this assertion. At the same time it can be said with truth that the principle was born with the treaty. In communicating the Treaty of Nanking to Parliament, Queen Victoria of England said among other things: "Throughout the whole of my negotiations with the Government of China, I have uniformly disclaimed the wish for any exclusive advantages. It has been my desire that equal favor should be shown to the industry and commercial enterprise of all nations."<sup>6</sup> This was an authoritative utterance by the reigning sovereign of the country which was a party to the treaty and which, then as now, had the greatest volume of trade in China. Tech-

<sup>5</sup> Regulations respecting transit dues, etc., see Hertslet's China Treaties, Vol. I, pp. 12-14.

<sup>6</sup> John Bassett Moore, A Digest of International Law, Vol. V, p. 418.

nically, it was not a declaration of the conventional most-favored nation treatment, but it was an enunciation by the British Government of the policy that equal favors and advantages should be given "to the industry and commercial enterprise of all nations." Mr. Caleb Cushing, the first American Minister to China, believed that Great Britain had "from the outset adhered in good faith to this idea" of equal opportunity.<sup>7</sup> The fact that the establishment at Hongkong, which Great Britain had just then acquired from China, was freely open to the ships of the United States, of Holland, of France, and of other countries, was sufficient testimony of her good faith.

Still more concrete in idea, more definite in language, and more fruitful in results than the statement by Queen Victoria to the British Parliament was a provision in the Anglo-Chinese Treaty of 1843, which, when examined carefully, embodied the very elements of the principle of equal opportunity and equal treatment, such as is usually implied in the most favored nation clauses. The thirteenth article of the said treaty, signed at Hoomun-Chae, October 8, 1843, was the first treaty provision with China for the most favored nation treatment. The Article reads: "The Emperor of China, having been graciously pleased to grant to all foreign countries whose subjects or citizens have hitherto traded at Canton, the privilege of resorting for purposes of trade to the other four ports of Foochow, Amoy, Ningpo, and Shanghai, on the same terms as the English, it is further agreed that should the Emperor hereafter, from any cause whatever, be pleased to grant additional privileges or immunities to any of the sub-

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<sup>7</sup> J. B. Moore, *Ibid.*



jects or citizens of such foreign countries, the same privileges and immunities will be extended to, and enjoyed by British subjects.”<sup>8</sup>

This first stipulation for the most favored nation treatment contained the germ and was the precursor of the later day Open Door policy. It is, however, interesting to note that in this case, it was Great Britain who asked for equal enjoyment of further trade privileges and immunities should they be granted by the Chinese Government to the citizens or subjects of other nations. In opening up China to the trade of the world, it was Great Britain, as we have seen, who had played the most important part. That this was so was “one of the commonplaces of modern politics and history, which it is needless either to demonstrate or to endorse,” said Lord Curzon in a parliamentary speech. “We were the first people to unlock the door of China to foreign trade; we were the first Power to survey her coasts; we were the first to drive away pirates from her seas; we were the first to stud the whole line of her coasts with ports open not only to ourselves but to the commerce of the whole world. We were the first people to send steamers up her waterways, to build railways for her, to exploit her mines, and to carry for thousands of miles into the interior of the country the benefits of European manufactures and comforts. And let it not be forgotten that we were the first Power to give China the nucleus of a pure administration, at the same time that we added a great amount of annual revenue to her Treasury by initiating an Imperial Customs service in that country.”<sup>9</sup> With-

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<sup>8</sup> British and Foreign State Papers, 1842-1843, Vol. XXXI, p. 133.

<sup>9</sup> Parliamentary Debates, March 1, 1898, pp. 330-331.

out questioning the truth of the assertion, it is sufficient to say that, certainly to no other Power could be given the credit of making China available to foreign trade and commerce, although the methods by which it was done can not be wholly commended. Great Britain was a free trade country, and it may be fairly said (without taking into consideration the nefarious conduct of her individual merchants in the early days), that, in making the Chinese market available for her own commerce, she also made it available to the entire world. It has been said to be the customary practice of Great Britain that, after obtaining a new outlet for trade she would share it equally and freely with other countries. It was in view of this liberal policy that Queen Victoria "disclaimed the wish for any exclusive advantages" in China, but expressed the desire that "equal favor should be shown to the industry and commercial enterprise of all nations." It was but natural that she should ask, in the supplementary treaty of 1843, that whatever additional privileges and immunities to be granted to the citizens or subjects of other countries should be equally enjoyed by her own nationals.

Aside from this equitable arrangement, early practice of the Open Door principle can be found in a multitude of instances. Nowhere was it so clearly shown, however, as in the fact that the acquisition by Great Britain of trade facilities in China under the Nanking Treaty was immediately followed by the conclusion between China and the foreign Powers of similar treaties, which provided for similar facilities and privileges. Thus, the French and American Governments, soon after the Treaty of Nanking, "decided to profit by the privileges which the British had obtained." In 1844, the French Government sent a special mis-

sion to Peking with the purpose of cultivating trade relations between the two countries. As a result, a treaty was entered into between China and France, whereby trading rights and privileges, similar to those obtained by the British two years before, were conceded to the French. In matters of transit dues, import and export duties, France was given the *traitment de la nation la plus favorisee*. And the Americans were not at all slow in taking advantage of the situation. In fact, Americans were the first to demand equal enjoyment of the rights and privileges thus accorded to the British after the Opium War. Commodore Kearny, the commanding officer of the American squadron in Chinese waters, who watched the progress of the Opium War and the negotiations of the Nanking Treaty, demanded, in a communication to the Governor at Canton, that the citizens of the United States in their trade in China should "be placed upon the same footing as the merchants of the nation most favored." This demand was made with the knowledge that a custom tariff and new trade regulations would be agreed upon between China and Great Britain, and in fear that exclusive rights and privileges might be stipulated for the British alone. On Kearny's representation, the Chinese Government promised that whatever concessions made to Great Britain would also be granted to the United States. So when the new tariff, averaging the low rate of five per centum, and the trade regulations were agreed upon between China and Great Britain, they were applied to the commerce with China, not only of England, but of all countries. "It is due to the Chinese Government to say that this grant of trade to all nations upon equal terms was an inspiration of its own sense of justice, as neither the Emperor nor his

commissioner had any knowledge of the rule of international law—"the most favored nation"—at that day even imperfectly observed by the Christian governments."<sup>10</sup>

On May 8, 1843, Mr. Caleb Cushing was appointed Minister Plenipotentiary and Commissioner to China to negotiate a treaty. With the advantages already secured by Commodore Kearney, it was not a very difficult task to carry out the mission with success. The first treaty between China and the United States was concluded on July 3, 1844, in which the promise given to Commodore Kearny for equal treatment for the Americans in China was given expression in this language: "If additional advantages or privileges of whatever description be conceded hereafter by China to any other nation, the United States and the citizens thereof shall be entitled thereupon to a complete, equal, and impartial participation in the same." In the same treaty, there were "sixteen points," as Mr. Cushing pointed out, which were not formerly embraced in the British treaty of Nanking. As the supplementary treaty of 1843 provided for the British the most favored nation treatment, they could enjoy at once whatever additional privileges accrued to the citizens of the United States. "I recognize the debt of gratitude," said Mr. Cushing triumphantly after the conclusion of the treaty of Wang-Hiya with China, "which the United States and all other nations owe to England, for what she has accomplished in China. From all this much benefit has accrued to the United States. But, in return, the treaty of Wang-Hiya, in the new provisions it makes, confers a great benefit on the commerce of the British Empire; . . . and thus what-

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<sup>10</sup> John W. Foster, *American Diplomacy in the Orient*, p. 77.

ever progress either government makes in opening this vast empire to the influence of foreign commerce is for the common good of each other and of all Christendom.”<sup>11</sup>

These arrangements marked the first stage in the development of the principle of equal treatment, which, as has been seen, was introduced into China as soon as she abandoned her policy of seclusion and opened her doors to foreign intercourse. As the maritime commerce of the world in general was rapidly increasing, and as the ships of Western nations were traversing all seas, owing to the application of steam navigation, the volume of China's foreign trade increased by leaps and bounds. Nations in the West, which had had hitherto very little to do with China, also sought to establish commercial relations with her. Thus, Belgium, Brazil, the Netherlands, Denmark, Italy, Germany, Spain, Portugal, Peru, etc., all began to have treaty relations with China. In 1858, Great Britain and France made fresh stipulations for most favored nation treatment, after the conclusion of the "Arrow" War. And the United States, though not a participant in the war, also reaped its fruit by entering into a similar agreement with China. "The allies were able to dictate their own terms; and they got all they asked for. . . . The rest of us got the same, though we had struck no blow and shed no blood. One article known as 'the most favored nation clause' (already in the treaty of 1844) was all that we required to enable us to pick up the fruit when others shook the tree."<sup>12</sup>

In this connection, it should be noted that the most favored nation clauses inserted in the British Treaty of Tien-

<sup>11</sup> U. S. Senate Exec. Doc. 67, 28th Congress, 2nd session.

<sup>12</sup> W. A. P. Martin, *The Awakening of China*, p. 166.

tsin of 1858—and in the Chinese-American and Chinese-French treaties of the same year, were much broader in scope and more inclusive in language than the provisions in the early treaties. It was largely on the model of the provisions found in the British treaty, however, that almost all the most-favored nation clauses in China's commercial treaties with the other Powers were drafted. Article XXIV of the British treaty provided for the most favored nation treatment in respect to imports and exports: "It is agreed that British subjects shall pay on all merchandise imported or exported by them, the duties prescribed by the tariff, but in no case shall they be called upon to pay other or higher duties than are required of the subjects of any foreign nation."<sup>13</sup> And by Article

<sup>13</sup> Hertslet's *China Treaties*, Vol. I, p. 26.

LIV, the most favored nation treatment conferred upon British subjects in the previous treaties with China was confirmed. "The British Government and its subjects are hereby confirmed in all privileges, immunities, and advantages conferred on them by previous treaties; and it is hereby expressly stipulated that the British Government and its subjects will be allowed free and equal participation in all privileges, immunities, and advantages that may have been, or may hereafter be, granted by His Majesty the Emperor of China to Government or subjects of any other nation."<sup>14</sup> These stipulations were reaffirmed and extended in the first article of the supplementary treaty of October 23, 1869. "China having agreed that British subjects shall participate in all advantages accorded by Treaty to the subjects of other Powers, it is further agreed that British subjects desiring to participate in the advantages accorded by Treaty to the subjects of

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<sup>14</sup> *Ibid.*, p. 34.

other Powers shall participate in such advantages on the same conditions on which they have been accorded, and are participated by, the subjects of such other Powers.”<sup>16</sup>

These articles were the main foundations upon which Great Britain had built up her commercial and economic structure in China. They were the bottom-rocks of the practice of equal opportunity. They were almost priceless to Great Britain, and to the other Powers who had similar provisions, and who were anxious to keep the commercial and economic doors in China open for all the nations of the world. It was no wonder, therefore, that the British Government was most insistent upon the continuous and faithful observance of these provisions, at the time when the Powers, in struggling for territorial concessions and spheres of influence, were ready to forget their existence. In the heat of a parliamentary debate, Lord Curzon poignantly remarked: “We cannot consent either to their abandonment or infraction.”<sup>16</sup> The Marquis of Salisbury was equally emphatic when he said: “We have no intention of surrendering one iota of our treaty rights; there is no effort which this country will not make rather than allow those rights to be overridden.”<sup>17</sup> These were brave words, and coming as they did from the responsible statesmen of Great Britain, they served to indicate at once how highly the most favored nation treatment was thought of and why it should be preserved by all means. How important the principle and practice of equal treatment was to Great Britain in particular, and to the commercial world at large, and what bearing

<sup>16</sup> Hertslet's China Treaties, Vol. I, p. 62.

<sup>16</sup> The Parliamentary Debates, March 1, 1899, p. 339.

<sup>17</sup> The Parliamentary Debates, February 8, 1898, pp. 38-39.

this principle had upon, or what resemblance it bore to, the Open Door policy of today, can be seen best from the utterances of British statesmen, especially those made at the time when China was threatened with disruption. It was the firm belief of the British statesmen that the provisions for the most favored nation treatment found in the treaty of Tien-tsin and other subsequent treaties were the rock foundations of the Open Door policy in China, and the abandonment of them would mean the abandonment of the Open Door. "Our belief," said Lord Curzon, "is that the integrity of China is most likely to be secured by throwing open China to the interests and intercourse of the whole world, and not, so to speak, by closing her into separate water-tight compartments, each bearing a separate label or appellation of its own."<sup>18</sup> And he also expressed the opinion that the articles on the most favored nation treatment in the Treaty of Tien-tsin and subsequent treaties gave the British Government "the right to oppose any exclusive privileges or special tariffs that may be sought for by others." "They establish, in fact, equality of treatment and opportunity as the principal basis of our relations—I might almost say, the principal basis of international law—in reference to China."<sup>19</sup> The Earl of Kimberley, another prominent member of the British Government at the time, said that the British policy was "that of the Open Door—that is to say, of maintaining the conditions arrived at under the Treaty of Tien-tsin, under which our commerce has been hitherto carried on, and avoiding what Mr. Curzon called, by the very opposite term, the partition of China into

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<sup>18</sup> The Parliamentary Debates, March 1, 1898, p. 339.

<sup>19</sup> *Ibid.*



water-tight compartments.”<sup>20</sup> Mr. Keswick, a prominent member of the British Parliament then, expressed the desire that it might be found possible “to arrange for the universal observance of the Treaty of Tien-tsin,” in which the most favored nation treatment was guaranteed to the British merchants. “It was the observance over the whole of China of the tariff provided by that treaty” that was regarded as an essential condition of the operation of the Open Door principle.<sup>21</sup> And, on May 10, 1899, the Duke of Devonshire, in a speech before the Bankers’ Association of London, said: “We should still have the ‘Open Door’ in China so long as it was in the power of the Chinese Government to observe its treaty engagements,” meaning, of course, that the world would still have the Open Door, so long as it was in the power of the weak Government at Peking to observe the most favored nation treatment.<sup>22</sup> With similar expressions of similar views, we may go on infinitely. This much is enough, however, to show the necessity of upholding the most favored nation clause in China in order to keep her door open for all countries in the world.

It is really interesting to see how British statesmen at the time interpreted the spirit of the Open Door policy in the terms of the most favored nation clauses, and how they spoke of the two almost interchangeably. No one saw more clearly than they that, if these provisions were not to be disregarded, or if the Chinese Government were sufficiently strong to enforce them, there would be no danger to the traditional principle and practice of equal treatment for all na-

<sup>20</sup> The Parliamentary Debates, April 5, 1898, p. 178.

<sup>21</sup> Cited in *The Problem in China*, Edinburgh Review, July 1899, pp. 254-255.

<sup>22</sup> Edinburgh Review, July, 1901, p. 165.

tions in China. And, indeed, no one would take up the battle cry for the Open Door, when the door was actually open. But unfortunately, as Dr. Reinsch had observed, the Powers, in their struggle for more and more concessions from China, was ready to cast this sound principle into oblivion. The sinister game of grabbing, presumably started by Germany, was immediately taken up by the other Powers, who had, through their early dealings with China, already appropriated to themselves parts of her territorial possessions. The lease of Kiaochow Bay by Germany was swiftly followed by the lease of Port Arthur and Ta-lien-wan by Russia, Kwang-chow-wan by France, and Wei-hai-wei and Kowlon by Great Britain. Together with the territories leased to them, these Powers ear-marked for themselves spheres of interest, or influence. Within the leased territories, the European Powers were to enjoy jurisdictional and administrative rights, which were delegated to them by China for twenty-five or ninety-nine years, as the case might be. "Such a condition of things necessarily suggests the possibility that the various Powers may, by an extension of their acquired jurisdictional and administrative rights, seek to annul the treaty relations of the mercantile nations with China by imposing discriminating taxes, duties and charges in the ports and rivers and on the railways in their respective spheres, and practically exclude their competitors from the Chinese market."<sup>23</sup> It was with this contingency in view that Secretary John Hay, in his famous diplomatic

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<sup>23</sup> S. G. Hishida, *The International Position of Japan as a Great Power*, pp. 207-208.

circular of September 6, 1899, called upon the Powers to observe in their respective spheres and leased territories absolute equality of treatment in matters of transportation and navigation, trade and commerce.

## CHAPTER IV.

### The Break-Up of China

**I**F one studies carefully the history of the opening of China to foreign trade intercourse, one cannot fail to notice the most striking fact that, while she was being forced to throw open her doors, she was also being stripped of her territories, dependencies, and colonial possessions. Indeed, it may be truly said, that the process of her political disintegration began as soon as her walls of isolation failed to withstand the onslaught from the West or to protect her from the politico-economical erosions. This process of disintegration may be likened to an ailment in China's body politic. It was chronic, but it became suddenly acute towards the end of the nineteenth century, when the European Powers, after witnessing her absolute weakness and helplessness as revealed in the Chino-Japanese War of 1894-5, planned for her final vivisection. The hue and cry of the dismemberment of China went up, for the time, in all parts of the world, and it was echoed and re-echoed from the East to the West and from the West to the East. It was no wonder at all, therefore, that a British Admiral and a prominent member of the British Parliament then, should write a book on "the break-up of China," although, for its real worth, the book must be taken by its subtitle, which is China's "future prospects."

The country that led in the opening up of China led also in her dismemberment. For, was it not Great Britain who, after the conclusion of the Opium War, annexed the Island of Hongkong as a price of peace? This annexation was

the first of the kind known in the history of China of thousands of years, and undoubtedly it set the tune for further aggressions by other foreign Powers. The third Article of the Treaty of Nanking gave the very simple reason why Hongkong was annexed: "It being obviously necessary and desirable that British subjects should have some port at which they may careen and refit their ships, when required, and keep stores for that purpose, His Majesty the Emperor of China cedes to Her Majesty the Queen of Great Britain, etc., the Island of Hongkong, to be possessed in perpetuity by Her Britannic Majesty, her heirs and successors, and to be governed by such laws and regulations as Her Majesty the Queen of Great Britain, etc., shall see fit to direct." It was in this naive manner that Hongkong passed into the hands of Great Britain! Of its strategic value, the world knew little or nothing at first, and as to its advantage as a commercial entrepot, it was not fully realized until Great Britain had made it a centre of international trade in the Far East. In view of its strategic value, commercially and politically, Hongkong was admittedly as a choice morsel of Chinese territory as Great Britain or any other Power could lay her hands upon. It stands today, not only as a prosperous British commercial centre in the Orient, but also as one of the strongest links of the British Empire.

But this was not all. Not satisfied with the acquisition of Hongkong, Great Britain was continuously on the lookout for further opportunities to grab. The conclusion of the "Arrow" War in 1860 furnished the desired opportunity. Great Britain, as the victor, was again ready to dictate the terms of peace, and China, as the vanquished, was once more called upon to pay for her weakness. One of

the terms of the Treaty of Peace provided for the cession of Kowloon to Great Britain, which was formerly leased to Sir Harry Parkes as the representative of the British Government.<sup>1</sup>

Still Great Britain was not contented. She looked for more. Hongkong and Kowloon were but stepping stones to something yet bigger and more attractive. In 1886, after three wars waged under different pretexts, Great Britain annexed the Kingdom of Burma, which had been for centuries a dependency of China. Of the long history that leads up to the annexation we can give but a short account here.

Owing to a close contact along a very extended line of frontier between Burma and British India, it was evident that the two countries had a good deal to do with each other as neighbors. It was almost a habit with the Burmese, aggressive as they were then and boastful of their valor and tactics, to harass the frontier forces of India, whom they thought they could attack with immunity. Owing to the failure by the Burmese Government to make due reparations for these frontier depredations, war was declared by the British Indian Government on March 5, 1824. This was the first Burmese War, and it was brought to the end by the treaty of Yandaboo, of Feb-

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<sup>1</sup> Article VI of the Peking Convention, October 24, 1860, provided for the cession of Kowloon in this language: "With a view to the maintenance of law and order in and about the harbor of Hongkong, His Imperial Majesty the Emperor of China agrees to cede to Her Majesty the Queen of Great Britain and Ireland, and to Her heirs and successors, to have and to hold, as a dependency of Her Britannic Majesty's colony of Hongkong, that portion of the township of Kowloon, in the Province of Kwangtung, of which a lease was granted in perpetuity to Harry Smith Parkes, Esquire, Companion of the Bath, a member of the Allied Commission at Canton, on behalf of Her Britannic Majesty's Government, by Lan Tsung Kwang, Governor-General of the Two Kwang."—Hertslet's China Treaties, Vol. I, p. 50.

ruary 24, 1826, in which the Burmese Government conceded the payment of an indemnity and a few territorial arrangements.<sup>2</sup>

What was formerly a local ill-feeling between the Burmese and the Indian forces on the frontiers became a general hatred of the British with the conclusion of the Yandaboo treaty. Indeed, the British resident functionary in Burma, who was appointed in 1830, found his stay there so disagreeable either to the Court or to himself that, in 1837, he had to retire from the country altogether. This state of sullen dislike was soon succeeded by acts of open hostility upon British residents and British seamen. A refusal on the part of the Burmese Government either to atone for the past wrongs or to give guarantee for the future led to the second Burmese War of 1852. The result of the war was that "the whole province of Pegu (Lower Burma) was, by proclamation of the Governor-General (of India), Lord Dalhousie, declared to be annexed to the British dominions on the 20th of December, 1852." "No treaty was obtained or insisted upon—the British Government being content with the tacit acquiescence of the King of Burma without such document."<sup>3</sup>

The loss of Lower Burma was a matter of bitter regret among all classes of Burmese, and the King absolutely refused to acknowledge it by a formal treaty. It was not until 1862, ten years after the annexation by Great Britain of Lower Burma, that the King consented

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<sup>2</sup>The terms of the treaty of Yandaboo include: (1) the cession of Arakan, together with the provinces of Mergui, Ye, and Tavoy; (2) the renunciation by the Burmese Government of all claims upon Assam and the contiguous petty states; and (3) the payment of an indemnity by the Burmese Government.

<sup>3</sup>The Encyclopedia Britannica, 11th Edition, Vol. IV, p. 845.

to the establishment of a definite diplomatic relation between the two countries. And then five years later, in 1867, a treaty was concluded at Mandalay, providing for the free intercourse of trade and the establishment of regular diplomatic relations. All this was done without the knowledge or permission of China, the suzerain Power, and it was perhaps the wish of the British Indian Government that China should not be informed of these matters. For several years, the relations of peace and friendship between Burma and British India continued undisturbed. But the feeling of amity on the part of the Burmese Government and people was never very strong, and the repeated loss of their territories, particularly Lower Burma, remained a deep wound in the hearts of the patriotic Burmese. Disputes in regard to commercial rights and privileges were bitter and frequent, and matters were brought to a crisis in October, 1885, when the Burmese Government attempted to impose a fine of \$230,000 on the Bombay-Burma Trading Corporation, and refused the suggestion of the Indian Government that the matter in dispute should be investigated and decided upon by an impartial arbitrator. This refusal led to the British ultimatum of October 22, 1885, calling upon the Burmese Government to accept the British proposal. On the 7th of November, King Thibaw issued a proclamation, calling upon his subjects to drive the British and the Indians into the sea. The third Burmese War broke out. The British decided upon the occupation of Mandalay and the dethronement of the King, which were easily accomplished. On the 14th of November, 1885, the British forces crossed the frontier, and without any serious obstruction, the whole country was occupied within a fortnight. On the



first of January, 1888, Upper Burma was formally annexed to the British Indian Empire.

It was hardly necessary to point out that though the annexation of the country was thus easily brought about, there yet remained to be considered the traditional rights of China as the suzerain Power over Burma. Negotiations were soon commenced between Great Britain and China, which resulted in the conclusion of the Treaty of Peking of July 24, 1886. Other than going to war with Great Britain China had no alternative but to recognize the *fait accompli*. She agreed that "in all matter whatsoever appertaining to the authority and rule which England is now exercising in Burma, England shall be free to do whatever she deems fit and proper."<sup>4</sup> Thus Great Britain, after years of war and diplomacy, gained undisputed possession of an important territory contiguous to her Indian Empire.

Russia was the next Power that had a covetous eye on the Naboth's vineyard in China and took the biggest slices of territories from her. The story of the Russian overland expansion in the Far East at the expense of China began at a very early date. Ever since the day when the Treaty of Nerchinsk was concluded in 1689, which placed the whole of the Amur valley in the hands of the Chinese Emperor, and confined the Russian possessions to the north of the Aigun River,<sup>5</sup>

<sup>4</sup> Hertslet's China Treaties, Vol. I, pp. 88-90. Article I of the Treaty provided for the decennial missions from Burma to China: "Inasmuch as it has been the practice of Burma to send decennial missions to present articles of local produce, England agrees that the highest authority in Burma shall send the customary decennial missions, the members of the missions to be of Burmese race." This provision was nothing short of an official recognition by Great Britain of China's suzerain status over Burma.

<sup>5</sup> For the history and the negotiation of the Treaty of Nerchinsk, see John W. Foster, American Diplomacy In the Orient, pp. 17-18.

the ambitious statesmen of Russia had been on the continuous watch for a convenient opportunity to alter the frontiers thus agreed upon. This desired opportunity arrived, after a lapse of more than two hundred years, when, in the middle of the nineteenth century, China was embroiled in the Taiping insurrection (1850-1867). In 1851, a Russian warship, sailed up the Amur estuary, and founded the town of Nikolaievsk, and in 1853, Alexandrovsk and other towns were established on the Tartary Coast, all being well within the limits of the Chinese territory as defined by the Treaty of Nerchinsk. And, in a few years, thanks to General Mouraviev, the sagacious and aggressive Governor-General of Eastern Siberia, Russian posts were established along the whole of the north bank of the Amur River. The Chinese Government promptly protested against all these infractions of the Nerchinsk Treaty, but she was not in a position to back up her protests. The Taiping Rebellion had proved such a serious menace to the Manchu dynasty that all available troops in the country were sent to cope with the rebels. Taking advantage of this circumstance, and realizing that the "psychological moment" had arrived, for which she had waited for centuries, Russia, in 1858, sent a formal demand to the Peking Government for the "rectification" of the frontier. It was easy to understand what Russia really meant by the "rectification" of the frontier, but it was difficult for China to make an effective reply. She was then absolutely helpless and powerless. Menaced on the one hand by the serious insurrection, and harassed on the other by the difficulties then pending because of the "Arrow" War with Great Britain and France, China was in no position to resist the Russian demand. She had no choice but

to consent to the rectification. The result was the conclusion, on May 16, 1858, of the Treaty of Aigun, which reversed the Treaty of Nerchinsk, and placed in the hands of Russia the whole of Chinese territory north of the Amur River, a region, as a British writer had observed, covering an area eight times as large as Great Britain and Ireland.<sup>6</sup>

With this acquisition, Russia was not yet satisfied. Her ambition was to reach the seaboard, for the realization of which she had to watch for another chance. "Having thus obtained possession of all the country north of the Amur River," as one writer observed, "Russia cast her eyes on that which lay to the south." "After biding her time a while, she fixed on the presence of the allied French and English forces in Peking as a moment when the Chinese could not afford to be particular. In 1860 then, General Ignatieff was despatched to the Celestial capital, where he without difficulty negotiated the Russian treaty of Peking, which has since served as the basis of international relations between the two countries. Under this document the whole of Manchurian Coast line between Ussuri River and the sea was ceded to Russia without any restrictions whatever. In addition to this, it conveyed the right of Russian traders to go to Peking, and annulled the Treaty of Nerchinsk. Thus did Russia obtain an accession of close upon three quarters of a million square miles to her territory, and an extension southward to the Bay of Vladivostock. More than this, the treaty brought the Southern frontier of Russia into contact with that of Korea, and gave her an advance of two hundred miles in the direction of Peking."<sup>7</sup>

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<sup>6</sup> Hertselt's *China Treaties*, Vol. I, p. 454.

<sup>7</sup> Alexis Krausse, *The Far East*, p. 40.

It was in this manner that Russia, by dexterous use of the presence in Peking of the Anglo-French forces, extorted from the terrified Government, without much difficulty, this expanse of territory, which Japan today sets her covetous eyes upon. This acquisition paved the way for her frontier aggressions in the Far East, which brought her eventually into sharp conflict, not only with China, but also with Japan and with Korea. But Russia was still unsatisfied. In a few years, another effort was made to add to the Russian Empire another piece of Chinese territory. In 1863, it may be recalled, a serious rebellion broke out among the Mohammedans of Sougaria, which the Chinese Government, owing to the Taiping Rebellion at home, could not spare enough force to suppress immediately. For nearly eight years the district was kept in a state of relative anarchy. In 1870, a Russian force marched into Kuldja and occupied the valley of Ili on the pretext of restoring order and preserving peace in the region. The Chinese Government, as usual, had no option but to consent to the occupation, which, the Russian Government announced, would only be of a temporary nature. In 1877, after a vigorous campaign by General Tso Tsung-tang, the Mohammedan rebellion was suppressed. Peace being restored, the Chinese Government, very naturally asked for the restoration of Ili, which was then still under Russian occupation. This could not be done, of course, except by negotiation, the result of which was the conclusion of the treaty of Livadia. According to the terms of the treaty, China was to repay the expenses of the occupation to the amount of 5,000,000 roubles, while Russia was to surrender the Kuldja valley, but to retain the neighboring Teke territory, which commands the approaches to Kashgar. The

Chinese Government refused to ratify the treaty. Further negotiations conducted by Marquis Tseng resulted in the conclusion, on February 12, 1881, of the Treaty of St. Petersburg, whereby China was to pay now 9,000,000 roubles for compensation and to give up only the western part of Ili, that was later incorporated with Russia.

We now come to the history of French expansion in the Far East, which is interesting, mainly because of the fact that, although making no serious effort to secure a footing in any of the Chinese provinces, France practically absorbed the whole of the former dependencies of China in the Indo-Chinese peninsula. As early as 1859, France set her eyes on Cochin-China. By the treaty of June 3, 1869, which concluded the Annamese War, the province of Saigon at the mouth of the Mekong River, was ceded to France. Three years later, in 1865, the King of Cambodia placed himself and his dominion under the protection of France. In 1874, a fresh treaty was entered into at Saigon with the Court of Hué, whereby the whole kingdom of Annam became a French protectorate, although, it must be admitted, the nominal independence of Tu Duc, the king of Annam, was guaranteed by the said treaty. On August 25, 1883, another treaty was concluded at Hué, which confirmed, and in many respects, amplified, the previous agreement. While France was determined to lose no time in annexing the country thus placed under her protection, she had, however, omitted one important factor from her calculation. The fact that the whole of Annam had been a dependency of China was entirely lost sight of. Marquis Tseng, Chinese Minister at Paris, protested against the annexation again and again. He was at first told that France had no designs on

Annam, but later he was informed that the French Government "had no explanation to offer to China in matters which concerned only France and Annam."<sup>8</sup> A persistent refusal on the part of the French Government to respect China's suzerainty over Annam led eventually to the outbreak of the Franco-Chinese War of 1884-5, a short account of which has been given before. It is sufficient here to state that by the treaty of 1885 China lost all her dependencies in the Indo-Chinese peninsula.

We have pointed out at the outset that, while China was (being forced to throw open her doors, she was stripped of her territorial possessions. The "break-up" of China, in other words, dated as far back as her opening. A fresh proof comes into our view when we consider the history of the occupation of Macao by the Portuguese—an occupation that "was commenced under the pretext of erecting sheds for drying goods introduced under the appellation of tribute (to China), and alleged to have been damaged in a storm."<sup>9</sup> As far back as 1530, Portuguese merchants began to flock to Macao, and to make their settlements there. For hundreds of years, largely due to the negligence on the part of the Chinese Government, the status of Macao was never distinctly defined. Before 1849, rental was paid by the Portuguese for the ground tax, but this payment was soon discontinued. On August 13, 1862, a treaty of commerce was signed at Tientsin by the representatives of China and Portugal, but it was never ratified in consequence of a misunderstanding or dispute in regard to the sovereignty of the territory.<sup>10</sup> In the ninth

<sup>8</sup> H. B. Morse, *The International Relations of the Chinese Empire*, Vol. II, p. 348.

<sup>9</sup> S. Wells Williams, *The Middle Kingdom*, Revised Edition, Vol. II, p. 428.

<sup>10</sup> *British and Foreign State Papers*, Vol. 55, p. 790.

article of the treaty there was an implication of the supremacy of the Portuguese authorities over the territory. In order that there should be no possible misunderstanding about China's sovereignty over the colony, China insisted that an express stipulation of her right of domain to the peninsula be inserted in the treaty. This was not done, and consequently the treaty was not ratified. The Portuguese trade at Macao, however, continued to flourish, and Portuguese residents in the colony continued to increase. But this state of affair could not be allowed to drift indefinitely. Thus another attempt was made by both countries in 1887 to arrive at a permanent settlement of the question. The result was the conclusion at Lisbon, March 26, 1887, of a preliminary agreement, whereby China, on the one hand, agreed to the "perpetual occupation and government of Macao and its dependencies by Portugal, as any other Portuguese possession," and Portugal on the other hand, agreed "never to alienate Macao and its dependencies without previous agreement with China." These provisions were confirmed by the Treaty of Friendship and Commerce between China and Portugal, signed at Peking, December 1, 1887, and ratified April 28, 1888. The delimitation of the boundaries of the colony remains yet to be carried out, negotiations in 1909 for that purpose having proved to be fruitless. In this connection, it may be of interest to add that though signed on the Chinese side by the high ministers of State, "this treaty, and the protocol on which it was based, were the work of Sir Robert Hart." The Chinese—Li Hung-Chang, Chang Chih-tung, and Liu Kun-yi, among the statesmen of the Empire, who were personal friends of Sir Robert Hart—never forgave him for the ali-

enation of this piece of Chinese territory.<sup>11</sup>

In the game of territorial grabbing, which was distinctly European in origin, Japan, though an Oriental country, was an equal adept. As early as 1870, Japan gave an unmistakable indication of her territorial ambitions. At this time she was not what she is today, she was little organized and scarcely prepared to embark on any serious program of territorial aggrandizement. She was, nevertheless, anxious to annex the Loo-chow Island, which had been tributary to China for centuries and centuries. Without going into the details of her various attempts, it is enough to say that Japan, at the time when China was having serious difficulties with Great Britain owing to the Margary murder, attempted to treat Loo-chow Island as an integral part of the Mikado's dominions by converting it into a Japanese prefecture. To this arrangement, China, as the suzerain Power, could not give her consent. The relation between the two countries was so strained for a time that war was threatened. In 1878, the Chinese Government invoked the good offices of the United States. General Grant, who was then in China on his world tour, offered to mediate. The mediation, however, was without practical result. Subsequently, it was understood that the dispute would be amicably settled by China taking part of the Island and Japan retaining the rest. This negotiation undertaken at Peking, and later efforts made for a settlement of the dispute, all ended in failure. In the summer of 1884, owing to the relations between China and France being severed, the Loo-chow question was set aside, and it was never taken up

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<sup>11</sup> H. B. Morse, *The International Relations of the Chinese Empire*, Vol. II, pp. 387-388. Mr. Morse considered the occupation of Macao by Portugal as "an act of usurpation."



again. Japan continued her measures for the effective administration of the Island.<sup>12</sup>

Japan's appetite for new territories was whetted with eating. She had the second helping at the conclusion of the Chino-Japan War of 1894-5, which furnished fresh opportunities for her territorial aggrandizement. Japan demanded as a price of peace a big indemnity from the Chinese Government, the cession of Formosa and of the Pescadores, and, intoxicated by the easy victory over China, she even went so far as to demand from her the cession of Liao-tung peninsula, in absolute disregard of the future security of the Chinese capital of Peking, of public opinion, and of the faint admonitions of the rest of the world. A coalition of three European Powers stepped in: Russia, France, and Germany, in no uncertain language, advised her not to take possession of Liao-tung peninsula.<sup>13</sup> Japan had to yield to this representation, and be satisfied with an additional sum of 20,000,000 taels which China was to pay for the restoration of the territory. This submission by Japan was a simple admission to the world that, while she was more than able to exact whatever terms she wanted from China, she quailed and yielded, when the European Powers of the first magnitude spoke, when Russia growled, when

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<sup>12</sup> John Bassett Moore, *A History and Digest of International Arbitrations*, Vol. V, p. 5947.

<sup>13</sup> On April 25, 1895, the following note was presented by Russia to the Government of Tokyo: "The Imperial Russian Government, having examined the terms of peace demanded of China by Japan, consider the contemplated possession of the Liao-tung peninsula by Japan will not only constitute a constant menace to the capital of China, but will also render the independence of Korea illusory, and thus jeopardize the permanent peace of the Far East. Accordingly, the Imperial Government in a spirit of cordial friendship for Japan, hereby counsel the Government of the Emperor of Japan to renounce the definitive possession of the Liao-tung peninsula."

France murmured, and when Germany roared.

To China this three-Power intervention was by no means a blessing. Indeed, it was a source of future troubles. In consideration of what was yet in store, it is more than questionable whether China derived any benefit from the step, which the three Powers took ostensibly on her behalf. Each Power had a price for her "service," which China must pay.

The immediate result of the Sino-Japanese War which, to borrow Professor Holland's suggestive language, "had destroyed the fame of one nation and made that of another," was an invitation, as it were, to the European Powers for further encroachments upon China. Her miserable defeat revealed her desperate weakness and absolute helplessness to the world much more glaringly than ever before, and the European Powers were quick to see their opportunity for further aggrandizement at her expense. It was at this moment that the cry of the "break-up of China" was on everybody's lips, and it was at this moment that the Powers in Europe, not satisfied with what they had already acquired from China in the past, actually contemplated of her dismemberment.

The first Power that took advantage of China's weakness was Germany, who, unlike France, England, Russia, or Japan, had hitherto no territorial possession in China, and who was, therefore, unusually anxious to seize the first possible opportunity to place herself on an equal footing with the rest of the Powers. In the month of January, 1897, a German expert in harbor-building and engineering was sent out to China by the Berlin Government, in response to a suggestion made in the previous year by the German Rear-Admiral on the China station. As the engineer's report was most fa-

avorable to the establishment of a German naval base at Kiao-chow Bay, the German Minister in Peking made, under instructions from Berlin, immediate overtures to the Chinese Government for the lease of the bay. It should be noted that the German Government wanted, in the first place, a naval base in the Chinese waters for the protection of German commerce and for the upholding of German prestige in the Far East. It should also be noted that the German expert, who was sent out to China to look over the ground, decided upon Kiao-chow Bay only after he had found out that Samsa Bay, Wei-hai-wei, and Sammon Bay were useless for such purpose. That this was so was admitted by the German Kaiser himself.<sup>14</sup> It was very natural, therefore, that the German diplomat in the Chinese capital, under instructions and inspirations directly from Berlin, should have made repeated overtures to the Chinese Government for the lease of the Kiao-chow Bay, and not of any of the others. To these overtures the Chinese Government lent but a deaf ear. Neither the German Minister nor the German Government knew how to proceed. At this very moment, however, an incident took place, which the German Government immediately made use of to bring about the realization of its ambi-

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<sup>14</sup> A German historical writer stated (in a book published under Imperial patronage) that the occupation of Kiao-chow was carried out as the result of a proposal by Bishop Anzer, then a well-known German missionary in China. Kaiser Wilhelm II, however, denied the truth of the statement, and in the margin of the book, he commented on it in the following language: "Wrong. I selected Kiao-chow after I had had Samsa Bay and Wei-hai-wei reconnoitered. Both were reported to me as wholly unsuitable. I thereupon took Baron von Richthofen's book and a map of China, and after reading his chapter on Shantung, I decided for the port Kiao-chow, as Baron von Richthofen's opinion of the Hinterland was so remarkably favorable. Bishop Anzer had nothing to do with the decision."—The Spectator, December 14, 1907, p. 969.

tion. On the first of November, 1897, three German Catholic missionaries (named Nies, Henle, and Stenz) were attacked by a Chinese mob in a village named Chang-chia in the Tsao-chow prefecture of Shantung province.<sup>15</sup> The first two named were wounded and finally died, and the third escaped unhurt. In this incident Germany saw immediately her desired opportunity to translate her dream into reality. She came to an understanding with Russia first, to whom, according to the notorious Cassini Convention, Kiao-chow Bay was to be leased. Thus, on the 10th of November, 1897, while the negotiation for the settlement of the incident was still pending and the demand for the lease was yet to be reconsidered, the German cruiser division in the Far Eastern waters, commanded by Admiral Diederichs, later of Manila fame in his tilt with Admiral Dewey of the United States during the Spanish-American War, arrived at the entrance of Kiao-chow Bay, and on November 14, he took possession of the Bay and its surrounding territories in the name of the German Emperor.<sup>16</sup>

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<sup>15</sup> B. L. P. Weale, *Re-shaping of The Far East*, pp. 372-373.

<sup>16</sup> The details of the seizure were given in *The North China Daily News*, November 29, 1897, as follows: "On Sunday, the 14th instant, at 8 A. M., a landing party was sent ashore to take possession of the heights surrounding the bay. At the same time the order was given to the 'Cormorant's' landing party, she being farthest inside the bay and commanding the passes to the interior, to take the powder magazine. Towards 9 o'clock these points having been secured, the Flag-Lieutenant was sent to the Chinese General with an ultimatum that within 3 hours he must clear out of the camp. The two ships 'Kaiser' and 'Prinzess Wilhelm' were so anchored outside of the port that they commanded the forts, the order having been given to fire on the same on a certain given signal. After delivery to him of the ultimatum the General withdrew, as resistance, especially as his ammunition had been seized, would have been futile. Towards 2 P. M. the German flag was hoisted on the east fort; the Admiral made a speech to the crews;

It will be recalled that in the alleged Cassini Convention, divulged in the *North-China Herald* of Shanghai and later in the *London Times* in the fall of 1896, Kiao--chow Bay was mentioned as the first of three ports which China was to lease to Russia. The German Government must have been well acquainted with its contents, the premature publication of which raised such an uproar in the diplomatic world that everybody having a hand in the matter denied the existence of the Convention. With the authenticity of the agreement, be it in the form of a treaty or of a memorandum, we are not here concerned. The question of interest is: If Kiao-chow Bay had been first promised to Russia, how did Germany succeed in getting it from China without any objection from the Russian Government? Was Germany not afraid of getting into serious complications with Russia, whose good-will she most desired to cultivate. The picture of Germany pursuing a deliberate scheme of world-empire with an aggressiveness and diplomatic subtlety alike miraculous was well-known, but it could not be easily imagined as to what she actually did in order to lease from China the territory which Russia had already pre-empted, so to speak. The true story and the diplomatic background of the lease were known among a few and remained until but recently a secret to the world at large. With the publication of the facts in the case by Dr. E. J. Dillon, it is now known that the Kaiser got the assent of the Czar first before he sent out his brother on a voyage of conquest. During his first visit to St. Petersburg after Nicholas' accession to the throne, the Kaiser was driving home together with the Czar in an open carriage from

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they saluted and gave three cheers for the Kaiser."

a review at Peterhof. In the course of conversation between the two potentates, the Kaiser suddenly broke away from the ordinary topics and exclaimed: "I want you to do me a favor. You are in the happy position of being able to help your friends as well as to punish your enemies. As you know, I am badly in need of a port. My fleet has no place worthy of the name outside my Empire. And why should it be debarred? That may, perhaps, serve the purpose of our covert enemies, but not Russia's. And I know your friendly sentiment towards me and my dynasty. I want you now to say frankly, have you any objection to my leasing Kiao-chow in China?" "What name did you say?" replied the Czar, whose knowledge of the Far Eastern geography was no better than that of a school boy. "Kiao-chow," repeated the Kaiser. "No—none. I see no objection whatever," quickly answered the Czar.<sup>17</sup> The royal understanding was thus complete. The Kaiser thanked his host profusely, and the imperial pair drove to the palace. A few moments later, the Czar confessed to the Grand Duke Alexei Alexandrovitch: "I feel put out with the Kaiser. Today he has tricked me into consenting to let him have Kiao-chow. Of course it is not downright annexation that he aims at. He is only going to lease it. All the same, it is a nasty trick." When the Grand Duke requested him to withdraw from this one-sided arrangement, he answered with heat: "No, no, I have given my word and I cannot back out. It is most vexing."<sup>18</sup>

Indeed, "it is most vexing." No sooner was the promise given than the untoward incident took place in China, which furnished the Kaiser the desired oppor-

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<sup>17</sup> Dr. E. J. Dillon, *The Eclipse of Russia*, pp. 247-249.

<sup>18</sup> *Ibid.*

tunity to translate the word into action, and enabled him, by a startling process of political chemistry, to turn the blood of the two missionaries in China into a comfortable place under the sun. The lease of Kiao-chow was demanded from the Tsung-li Yamen, the Chinese Foreign Office. As the German soldiers were already in possession of the city, and as, with Germany, possession was nine points of law, there was but one choice that China could make: to fight or to accept the demand. Not being in a position to defend herself, nor having any foreign assistance in sight, she accepted the German demand as gracefully as she could. Kiao-chow Bay was accordingly leased to Germany for ninety-nine years, with a special reservation on China's sovereignty over the territory. "Verily the blood of martyrs is the seed of wickedness!" "If one had to select the political crime of modern history which combined the maximum of viciousness with the minimum of excuse it would be this."<sup>19</sup>

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<sup>19</sup> The New Statesmen, July 5, 1919, p. 339. In this connection it should be noted that leasing territory from China was not all a new practice. Germany was not the first Power to hold a territorial lease from China, popular assumptions to the contrary notwithstanding. The system of leasehold was first introduced in China by Great Britain, who held a perpetual lease of Kowloon before it was ceded to her in 1860. By the Treaty of Peking, February 4, 1897, relative to the Burmese-Chinese frontiers, Great Britain held on a perpetual lease a large tract of territory that she recognized as belonging to China. Article II of the said treaty reads: "Great Britain engages to recognize as belonging to China the tract to the south of Namwan River, near Namkhai, which is inclosed to the west by a branch of the Nam Mak River and the Mawsin range of hills up to Loi Chow Peak, and thence by the range running in a north-easterly direction to the Shweli River. In the whole of this area China shall not exercise any jurisdiction or authority whatever. The administration and control will be entirely conducted by the British Government, who will hold it on a perpetual lease from China, paying a rent for it, the amount of which shall be fixed hereafter." (Hertslet's China Treaties, Vol. I, p. 114). This treaty was signed

The seizure of Kiao-chow Bay by Germany served as a signal for the other Powers to rush in. The game of territorial grabbing was now revived in earnest. Russia, France, and Great Britain followed, one and all, in Germany's footsteps and claimed to maintain what was generally called the "balance of power," the principle being that if one Power should grab something from China the others were to follow the example. Thus, as an "Englishman in China" had observed, "the scramble which moderate men had hoped to see indefinitely postponed was entered into with the zest of a Cornish wrecking raid. The officious interference of quasi-friendly Powers to save the derelict Empire from mutilation proved, according to unvarying experience, a remedy which was worse than the disease. Russia, Germany and France (and Great Britain, it may be added) proceeded to treat China as a No Man's Land; disintegration was the order of the day. The example was, of course, contagious. Other Powers, with no more substantial ground of claim than was afforded by the defencelessness of China, began whetting their knives to carve the moribund carcass."<sup>20</sup> As a set-off to the German hold in Shantung, therefore, France leased Kwang-chowwan from China for ninety-nine years;<sup>21</sup> Russia, in order to "provide herself a secure base on the north coast of China," leased Port Arthur and Talienwan for twenty-five years; and Great Britain, de-

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at Peking, February 4, 1897, while the Convention between China and Germany respecting the lease of Kiao-Chow Bay was signed at Peking, March 6, 1898.

<sup>20</sup> Alexander Michie, *The Englishman in China*, Vol. II, pp. 417-418.

<sup>21</sup> "*Le Gouvernement chinois, en raison de son amitié pour la France, a donné a bail pour 99 ans Kouang-tcheou-ouan au Gouvernement français pour y établir une station navale avec depot de charbon, mais il reste entendu que cette location n'affectera pas les droits de souveraineté de la Chine sur les territoires cédés.*"—*Hertslet's China Treaties*, Vol. I, p. 329.



viating from her official utterances and protestations that her interests in China were commercial and not territorial and that she was unalterably opposed to dividing China into "water-tight compartments," leased Wei-hai-wei "for so long a period as Port Arthur should remain in the occupation of Russia."<sup>22</sup> In addition to this, Great Britain also took advantage of this opportunity of international scramble to lease from China Mirs Bay, Deep Bay, and the adjacent islands and waters near Hongkong.

The last Power to come on the scene in this scramble for territorial leases was Italy, who, caught by the contagious disease, was also anxious to secure a similar foothold in China. On February 28, 1899, M. Martino, Italian Minister in Peking, with the support of the British Minister, demanded of the Chinese Government "the lease of Sammen Bay on the coast of Chekiang as a coaling station and naval base, including the concession of three islands off the coast, with the right to construct a railway from Sammen Bay to Po-yang Lake within a sphere comprising the southern two-thirds of Chekiang province."<sup>23</sup> To this demand Great Britain lent her diplomatic support, for she was desirous of making use of the Italian co-operation in the preservation of the balance of power in the Far East, which was seriously menaced by Russia. The Italian demand, however, met with no success. In spite of the fact that China was lying

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<sup>22</sup> "In order to provide Great Britain with a suitable naval harbor in North China, and for the better protection of British commerce in the neighboring seas, the Government of His Majesty the Emperor of China agree to lease to the Government of Her Majesty the Queen of Great Britain and Ireland Weihaiwei, in the Province of Shantung, and the adjacent waters, for so long a period as Port Arthur shall remain in the occupation of Russia."—Hertslet, *op. cit.*, p. 122.

<sup>23</sup> Annual Register, 1899, p. 358.

“like a stranded whale, apparently dead or dying,”<sup>24</sup> not all Powers could come after the blubber with success. The Italian demand was met with a firm refusal by the Chinese Government.

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<sup>24</sup> W. R. Thayer, *Life of John Hay*, Vol. II, p. 240.

## CHAPTER V

### The Regime of the Spheres of Interest

ONE of the curious by-products of the interplay of rival demands on China for territorial and economical concessions towards the end of the nineteenth century was the demarcation of the country by the foreign Powers into what is now generally known as the spheres of interest or influence. Not satisfied with the leased territories which they had forced from the crumbling Government at Peking, and yet discontented with the numerous railway and mining concessions that they had acquired one after another, Russia, Germany, France, Great Britain and Japan came upon a new scheme whereby they could assure themselves of anything and everything that China could offer in the event of her dismemberment. They introduced the system of spheres of interest or influence, which was nothing more, to use the words of an eminent international jurist, than "provisional appropriation of territories in advance of anything resembling occupation."<sup>1</sup> This "provisional appropriation" might be political, or merely economic. It is commonly understood that in China the term sphere of interest or of influence is used in a sense somewhat different from that which is used in Egypt, in Africa, or elsewhere. In China, it is the sphere of interest, rather than the sphere of influence, that the Powers have established or claimed. The niceties of diplomatic terminology may seem to an ordinary man quite absurd, but between the two terms there

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<sup>1</sup> John Westlake, *International Law*, Part I, p. 130.

is a good deal of difference. "The technical meaning of the term *sphere of interest* is an area of territory within which a nation claims the primary right of exploitation of commercial and natural resources. The term *sphere of influence* is by some thought to refer to a certain degree of political control, however slight it may be."<sup>2</sup> In other words, sphere of interest is a sphere of economic development, which is, in that case, designed for peaceful exploitation. The term sphere of influence,<sup>3</sup> is, strictly speaking, a sphere of dominion, which implies ultimate political control by the Power who claims it. These two terms have been used interchangeably, however, by most writers, and it is mainly for this reason that not infrequently writers on Chinese questions speak of spheres of influence when they actually mean spheres of interest. It is unnecessary here to go into the technical details of the two terms. For our purpose, it is sufficient to remember that one applies to regions reserved or pre-empted for economic exploitation, while the other refers to territorial spheres ear-marked for political control.<sup>4</sup> The former the Euro-

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<sup>2</sup> Paul S. Reinsch, *World Politics*, p. 113.

<sup>3</sup> "It cannot be irrelevant to remark that 'spheres of influence' and the theory or practice of the 'Hinterland' idea are things unknown to international law and do not as yet rest upon any recognized principles of either international or municipal law. They are new departures which certain great European Powers have found necessary and convenient in the course of their division among themselves of great tracts of the continent of Africa, and which find their sanction solely in their reciprocal stipulations." Mr. Olney, Secretary of State of the United States, to Sir Julian Pauncefote, British Ambassador at Washington, June 22, 1896.—J. B. Moore, *A Digest of International Law*, Vol. I, pp. 268-269.

<sup>4</sup> "The term 'sphere of influence' is not infrequently, but never officially, it is believed, employed in China as synonymous with the term 'sphere of interest.' This latter term is certainly to be preferred, but in some respects it is unfortunate that either expression should have found currency in China, for, as here applied, they both carry with

pean Powers, plus Japan, have all claimed to have, while the latter does not exist, in China. It should be noted that neither to the one nor to the other do the leased territories belong, which are a class by themselves. Strictly speaking, these territories are merely leased to the different Powers for the stipulated number of years, and they cannot, therefore, be regarded either as spheres of influence or of interest.

The spheres in China, territorial in demarcation, but essentially economic in nature, were created in two different ways. The first way was by understandings between China on the one side, and the Powers on the other, whereby the former undertook not to alienate any part of her territory, which any one particular Power entering into an understanding with China might claim to be greatly interested in, either because of the economic interests that she had already had therein, or because of its proximity to her own territorial possessions in Eastern Asia. The first instance of an engagement of non-alienation was found in the Burma Convention of March 1, 1894, between China and Great Britain, whereby the former agreed not to alienate the States of Munglem and Kiang Hung, which Great Britain had in the same treaty renounced in favor of China. "His Majesty the Emperor of China shall not, without previously coming to an agreement with Her Britannic Majesty, cede either Munglem or Kiang Hung, or any portion thereof, to any oth-

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them connotations quite different from those that are usually attached to them by international law writers. In China it will be found that a sphere of interest has only an economic, or, at the most, only a quasi or incidentally political meaning, whereas this expression, as well as that of sphere of influence, has a decidedly political signification when applied to regions in other parts of the world and especially in Africa."—W. W. Willoughby, *Foreign Rights and Interests In China*, pp. 270-271.

er nation.”<sup>5</sup> No sooner, however, was the promise made than it was broken. On June 20, 1895, a Convention was entered into between China and France for the delimitation of the Tonkin-Chinese frontier. In this delimitation, unfortunately, a portion of the territory of the State of Kiang Hung was given to France. In view of this infraction, China entered into another agreement with Great Britain, February 4, 1897, in which certain territorial compensations, including the state of Kokang, were given to the latter. As a further precaution against alienation of the territory in question, the Contracting Powers declared once more: “It is agreed that China will not cede to any other nation either Munglem or any part of Kiang Hung on the right bank of the Mekong, or any part of Kiang Hung now in her possession on the left bank of that river, without previously coming to an agreement with Great Britain.”<sup>6</sup>

France was not slow in realizing the advantages of such an arrangement with China, and was quick to follow the example which Great Britain had set in the demand on China for the non-alienation of the Kiang Hung State. Thus, on March 15, 1897, the Chinese Government, in reply to a request by the French Minister in Peking, declared that the Island of Hainan, which is in close neighborhood of the French possessions in Tonkin, would never be alienated or ceded by China to any foreign Power, “either as final or temporary cession, or as a naval station or coaling station.”<sup>7</sup> It should be noted that this arrangement took the form of an exchange of notes, and did not attain the dignity of an in-

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<sup>5</sup> Hertslet's China Treaties, Vol. I, p. 104.

<sup>6</sup> Hertslet's China Treaties, Vol. I, p. 116.

<sup>7</sup> Documents Diplomatiques, Chine, 1894-1898, p. 33.

ternational agreement. The French Government was, however, determined not to be bothered by the informal character of the engagement, and was disposed to be satisfied with the declaration of non-alienation of the island, which the Chinese Government had made obviously in response to the French request. It was later tacitly understood that the Island of Hainan was to be considered as a French sphere of interest.

Almost a year later, France made another request that the Chinese Government should put itself on record that it would never alienate any of the territories on the Tonkin border. M. Dubail, the French representative in Peking, in a letter to Tsung-li Yamen, April 4, 1898, said:

“With the purpose of assuring the relations of neighborliness and friendship between China and France; with the purpose, equally, of seeing the territorial integrity of the Chinese Empire maintained; and, further, because of the necessity of taking care that no change be introduced in the existing situation as regards the provinces bordering on Tonkin (*par suite de la necessite de veiller a ce que dans les provinces limitrophes du Tonkin, il ne soit apporte aucune modification a l'etat de fait et de droit existant*), the Government of the Republic (of France) would attach particular value to receiving from the Chinese Government an assurance that it will not cede to any other Power all or a part of the territory of those provinces, either definitely or temporarily, or on lease, or by any title whatsoever.”<sup>8</sup>

To the foregoing request, the Chinese Government made the following

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<sup>8</sup> Documents Diplomatiques, Chine, 1894-1898, p. 49. For English translation of the text of the French note, see Rockhill, *Treaties and Conventions With or Concerning China and Korea, 1894-1904*, p. 178.

reply, which was, as a matter of fact, no more a pledge than a declaration of its determination not to cede the territories in question to any Power whatsoever: "Our Yamen considers that the Chinese provinces bordering on Tonkin, being important frontier points which are of highest interest to China, must always be administered by China and remain under her sovereignty. There is no reason that they should be ceded or leased to any Power." With this declaration, France was apparently satisfied. It should be noted, in passing, that "the provinces bordering on Tonkin" meant the provinces of Yunnan, Kwangtung, and Kwangsi—the only provinces of China which are coterminous with the French possessions in Tonkin, and in the neighborhood of which France was anxious that no territorial changes should be introduced. It should also be noticed that this engagement was almost immediately broken. The Anglo-Chinese Convention of June 9, 1898, provided for an extension of Hongkong territory "for proper defence and protection of the Colony." This extension included Mirs Bay, Deep Bay, the Island of Lantao, the Island of Lamma, and a large tract of territory on the mainland in the province of Kwangtung, all of which Great Britain leased from China for ninety-nine years, and none of which France would like to see China cede to "any other Power," "either definitely or temporarily, or on lease, or by any title whatsoever."

That Great Britain was the Power most culpable in leading the program of earmarking the Chinese territories as her own exclusive spheres is a fact that cannot be denied. After France had extracted from the Chinese Government a promise of non-alienation of Hainan, but before she got a similar one regarding



the provinces on the Tonkin border, Great Britain, in order to maintain the balance of power in Eastern Asia, demanded from the Tsung-li Yamen a similar declaration, but over a much vaster region of Chinese territory. On February 9, 1898, Sir Claude M. MacDonald, British Minister in Peking, asked the Chinese Government to give "a definite assurance that China will never alienate any territory in the provinces adjoining the Yangtze to any other Power, whether under lease, mortgage, or any other designation."<sup>9</sup> Two days later, the Chinese Government replied that, as the provinces adjoining the Yangtze Valley were an integral part of China, to which she attached great importance, it was "out of the question" altogether that the Chinese Government would cede the territory in question to any Power whatsoever. This was an emphatic answer by the Chinese Government, but the emphasis did not prevent Great Britain from considering the Yangtze Valley as her own sphere of interest. It is mainly on the strength of this declaration of non-alienation by the Chinese Government, which is a very slender basis even if treated as an irrevocable promise by China, that today "Great Britain has built up for herself a claim to special consideration with regard to the granting of railway or other concessions in this region."<sup>10</sup> Originally,

<sup>10</sup> W. W. Willoughby, *Foreign Rights and Interests in China*, p. 282.

the non-alienation of the Yangtze Valley was one of those demands made upon China in return for the rejection of the offer of a guaranteed loan from Great Britain in 1897, and it was then pointed out that the rebuff to Great Britain must be paid for. Sir Claude M. MacDonald, the British Minister in Peking, was frank enough, however, to admit this:

<sup>9</sup> Hertslet's *China Treaties*, Vol. I, pp. 119-120.

“My chief ground was that we could not afford to find one morning that by reason of the murder of a foreign subject or the refusal of some demand by a foreign Power, some place on the Yangtze had been seized and was to be retained on a ninety-nine years’ lease.”<sup>11</sup>

All this happened at the time when the battle for political and economic concessions in China was at its height. It is easy to understand how the foreign Powers were anxious to safeguard their respective interests by this means, or by other and similar means. The maintenance of the balance of power served as a ready and convenient excuse for the Powers to do one thing or the other at the expense of China, and the well-known intention on their part to preserve China’s territorial integrity was all the excuse that was necessary for demanding from her the promises of non-alienation. But it is somewhat difficult to see how, seven or eight years later, Great Britain could justify herself in demanding a similar engagement from China regarding the integrity of Tibet—a country wherein British economic and commercial interest was almost nil, and whose integrity was in no way threatened (if it were then not threatened by Great Britain herself). Article IX of the Anglo-Tibetan Convention, signed at Lhasa, September 7, 1904, provided for the non-cession of Tibetan territory to any foreign Power. “No portion of Tibetan territory shall be ceded, sold, leased, mortgaged, or otherwise given for occupation to any foreign power.”<sup>12</sup> This was an agreement between Tibet on the one side, and Great Britain on the other. Inasmuch as Tibet is, as it has always been, a dependency of China, it was necessary that the said agreement should be confirmed by the

<sup>11</sup> China, No. 1, 1899, No. 20, p. 15.

<sup>12</sup> Hertslet’s China Treaties, Vol. I, p. 206.

suzerain Power. Thus, by the Peking Convention of April 27, 1906, China, the suzerain Power, agreed to the Anglo-Tibetan Convention of 1904, and undertook "not to permit any other foreign State (other than China) to interfere with the territory or internal administration of Tibet."<sup>13</sup>

Chronologically, Japan was the next Power to claim a sphere of interest for herself, and her piece of choice was none other than that province of China nearest to her own territorial possession off the Chinese coast. She earmarked the Fukien province as her sphere of interest. On April 24, 1899, Mr. Yano, the Japanese Minister in Peking, presented to Tsung-li Yamen the following telegram from his Government:

"The Government of Japan has viewed with constant deep concern the difficulties with which the Government of China has recently been confronted. The declaration made at the time of the evacuation of Wei-hai-wei is an evidence of this. It is to be apprehended that trouble may arise with consequence disastrous to China. In all this there is no mistaking what our purpose is.

"In view of the present state of affairs, the Government of Japan, mindful of its own interests, cannot act as if entirely in ignorance of passing events, but must take proper measures to meet any situation that may arise. You will ask the Government of China to make a declaration that it will not cede or lease to any other Power any portion of its territory within the province of Fukien."

The answer of the Chinese Government was, in this particular case, most emphatic. The declaration which the Japanese Government requested was easily and unstintedly given. "China will

<sup>13</sup> Hertslet, *op. cit.* p. 203.

not cede or lease to any foreign Power whatsoever," the declaration read, "the province of Fukien, with all the territory in the interior and along the sea coast within its limits, which is an important part of China."<sup>14</sup>

The Japanese demand for the non-alienation of the Fukien province was followed by another some seventeen years later, covering a much greater extent of the territory of China, and with much more ambitious schemes in view. It is interesting to recall in this connection that among the "twenty-one demands," which the Japanese Government pressed upon China for immediate and complete acceptance in the January of 1915, one was for the non-alienation of the territory or bays on the Chinese coast. The language of the demand ran thus: "The Chinese Government engages not to cede or lease to a third Power any harbor, or bay, or island, along the coast of China." This was one of the demands

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<sup>14</sup> W. W. Rockhill, *Treaties and Conventions With or Concerning China and Korea, 1894-1904*, pp. 181-182. It may be also of interest to note that, as intimated in the telegram quoted above, the game of the spoliation of China was watched with great interest and discussed with great intelligence in Japan. Early in April, 1898, an association was formed, called the Taigai-doshi-kwai (the Association of Foreign Policy, with a view to discussing the Chinese affairs and to pressing the Japanese Government to take positive measures to meet "the new order of things" in China. It was composed largely of prominent statesmen and diplomatists, and leading men in the country. When the representatives of the Association called upon Marquis Ito one day, who was then Premier of Japan, he assured them that "the Government would not neglect to promote the interest of the nation." Thus, towards the end of the month of April, 1899, the Japanese Government, in order to forestall the lease or occupation of any part of the Fukien Province by a European Power, which would menace the Japanese possessions of Formosa and Pescadore Islands, demanded and obtained, just as Great Britain had in respect of the Yangtze Valley and France had in respect of the Island of Hainan and the provinces on the Tonkin border, from the Chinese Government a positive declaration, which Japan construed as a promise, of the non-alienation of the province in question.

which made up Group IV, and which were accepted by the Chinese Government in entirety. It was difficult to understand why such a promise should have been exacted from the Chinese Government, especially at the time when the whole world was engaged in war, and when there was no one Power in sight, but Japan herself, who would ask China to cede or to lease any harbor, bay, or island along her coast. One very plausible explanation which has often been advanced by Japanese writers is that this demand was made with a view to forestalling the return to China of the Germans, who were successfully expelled from their leased territory at Kiao-chow, and who might, after the conclusion of the war, demand another leasehold from China, possibly on her coast. How far this was true, none but those acquainted with the innermost workings of the Japanese Foreign Office could tell.

Here we have the substance of the different declarations by China, undertaking not to alienate this or that part of her territory. It is extremely interesting to see that, in each and every case, the particular part of her territory, over which a declaration of non-alienation was made on the request or demand of a particular Power, has been considered ever since as the sphere of interest of that Power, in which she claims to enjoy prior rights for exploitation.

The second way whereby spheres of interest were created and, in some cases, recognized, was by direct understandings among the Powers themselves without consultation with China and without any reference to her wishes or desires at all. There can be no doubt that this method was much more obnoxious than the one we have just described.

The first and the earliest arrangement

of this sort was the arrangement made between Great Britain and France in regard to their mutual advantages in the province of Yunnan and Szechuen. It took the form of an official declaration, signed by the Marquis of Salisbury and M. de Courcel at London, January 15, 1896. Article IV alone of the declaration was devoted to this matter. It read:

“The Two Governments agree that all commercial and other privileges and advantages conceded in the two Chinese provinces of Yunnan and Szechuen either to Great Britain or France, in virtue of their respective Conventions with China of the first of March, 1894, and the 20th of June, 1895, and all privileges and advantages of any nature which may in the future be conceded in these two Chinese provinces, either to Great Britain or France, shall, as far as rests with them, be extended and rendered common to both Powers and to their nationals and dependents, and they engage to use their influence and good offices with the Chinese Government for this purpose.”<sup>15</sup>

It is needless to say that the arrangement was entered into without the knowledge of the Chinese Government. Yunnan and Szechuen are the two provinces, over which both France and Great Britain were claiming, then, a special interest, and the one would not recognize the claim of the other. In order to avoid possible misunderstandings, and conflicts of interest, between the two Powers, they wisely decided that whatever privileges and advantages were granted by the Chinese Government to one Power should be shared by the other. Thus, these two provinces, Yunnan and Szechuen, instead of falling into the

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<sup>15</sup> British and Foreign State Papers, 1895-96, Vol. LXXXVIII, pp. 13-16.

sphere of interest of any one particular Power, became, by virtue of this declaration, a field open to joint enterprises of the two Powers. To both France and Great Britain, therefore, these two provinces are today an open field, in every sense of the word. To the other Powers, however, they are as much closed as the Forbidden City in Peking is closed to the public.

The next arrangement of this sort was the Anglo-Russian agreement of April 28, 1899, which was essentially an arrangement of the railway interests in China of Russia and Great Britain respectively. It should be remembered that towards the end of the nineteenth century, when the European Powers were struggling for territorial concessions, they were also fighting for railway and mining concessions. In this fight, the Powers seemed to have been well lined up, with France, Russia, and Belgium on the one side, Great Britain and Germany (and the United States) on the other. The first tug-of-war took place over the construction of the trunk line between Peking and Hankow, nominally projected by Belgium, but really backed by Russia and France. It was easy to understand that such a line would be most strongly objected to by Great Britain, in view of the fact that the southern terminus of the line was to be Hankow, which is the very centre of the Yangtze Valley, earmarked as the British sphere of interest. It was also easy to understand that the objection by Great Britain to the construction of this trunk line would be much stronger if it were to be undertaken by France and Russia, her recognized rivals in China. The scheme was devised, therefore, that Belgium should be made to pose as the real builder of the line. A Belgian syndicate, called *La Société d'Étude des Che-*

*mins de fer en Chine*, was organized, and acting in obvious co-operation with the Russian and French Ministers in Peking, the Belgian Syndicate entered early in May 1898, into negotiation with the Chinese Government for the construction of the Peking-Hankow line. It was not difficult for Great Britain to look beneath the surface of the matter, and to view the scheme in its true color. The news of the negotiation was first published in the *Times* (London), May 22, 1898, and on May 26, Sir Claude MacDonald was telegraphically instructed to do what he could on the spot to foil the Franco-Russian scheme. Lord Salisbury, in a telegraphic dispatch to him declared frankly that "a concession of this nature is no longer a commercial or industrial enterprise and becomes a political movement against the British interests in the region of the Yangtze." He was accordingly instructed to inform the Chinese Government that "Her Majesty's Government cannot possibly continue to co-operate in a friendly manner in matters of interest to China, if, while, preferential advantages are conceded to Russia in Manchuria and to Germany in Shantung these or other foreign Powers should also be offered special openings or privileges in the region of the Yangtze."<sup>16</sup> The British Minister in Peking was also instructed to "press for the railways from Hankow or Kiu-kiang to Canton" as a counter-demand upon China.<sup>17</sup> In view of this vigorous representation, the Chinese Government declared that Russia was not interested in the scheme, and that it was not likely that the Russo-Chinese Bank would participate in the finance of the line. On June 27, the final contract of the Peking-Hankow Railway was signed, admitting,

<sup>16</sup> China, No. 1, 1899, No. 175, p. 117.

<sup>17</sup> China, No. 1, 1899, No. 141, p. 98.



however, the Russo-Japanese Bank to financial participation. The British Minister declared that this admission was a "breach of faith" on the part of the Chinese Government, for which satisfactory compensation must be given. "Her Majesty's Government considered that they had been badly treated by China in the matter of railway concessions, and now demanded from the Chinese Government the right for British merchants to build the following lines upon the same terms as those granted in the case of the Belgian line: Tien-tsin to Chinkiang (to be shared, if desired, with the Germans and Americans), Honan and Shansi, Peking Syndicate lines to the Yangtze; Kowloon to Canton; Pukow to Sing-yang; Soochow to Hangchow, with extension to Ningpo."<sup>18</sup> In order to bring the maximum amount of pressure to bear upon the Chinese Government, Sir Claude was instructed to declare that, "unless they (the Chinese Government) agree at once, we shall regard their breach of faith concerning the Peking-Hankow Railway as an act of deliberate hostility against this country, and shall act accordingly. After consultation with the Admiral, you may give them the number of days or hours you think proper within which to send their reply."<sup>19</sup> In the face of such a threat, which was nothing short of an ultimatum, the Chinese Government yielded to the British demands without much ado. Into the justice of the British demands we need not inquire here. It is pertinent to observe that the interests of the foreign Powers in China, and the economic balance of power, were always

<sup>18</sup> China, No. 1, 1899, No. 382. It was understood that lines from Shanghai to Nanking, and from Shan-hai-kwan to Newchang, were not included in this list. The preliminary agreements of these two lines had already been signed.

<sup>19</sup> China, No. 1, 1899, No. 286.

maintained, at the expense of China's own interests and rights. A British writer keenly observed: "When we fence with Russia or France, China has to stand between the points of the foils. Each lunge is made, as it were, through the body of the 'Tsunqli Yamen.'" <sup>20</sup>

But this was but the first pitched battle. While this was being fought out, Great Britain and Russia were involved in another railway dispute, which was equally serious. In March, 1898, Russia, being anxious to obtain exclusive control over railway matters in Manchuria and in Pechili, pressed the Chinese Government to remove Mr. Kinder, a British subject, from his position as superintendent of the Tien-tsin-Shanghai-kwan Railway, and to appoint a Russian in his place. Russia also demanded that "the line north of Shan-hai-kwan should be constructed by Russian engineers and with Russian capital." <sup>21</sup> But Great Britain was equally alive to her own interests in North China and Manchuria. No sooner was the demand made by Russia than the Hongkong and Shanghai Banking Corporation secured from the Chinese Government, on June 7, 1898, a preliminary agreement for the construction of a railway between Peking and Newchwang, then the only treaty port in Manchuria, undertaking to furnish the necessary amount of capital, and satisfying itself merely with a mortgage on the line. Russia was naturally perturbed by what she considered to be a "British invasion of the Russian sphere of interest." Unless a satisfactory arrangement were come to between the two Powers, more serious conflicts would be inevitable. Thus, M. Lessar, the Russian Charge d'Affaires in London, in an interview with Mr. Balfour on August 12,

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<sup>20</sup> *Edinburgh Review*, July, 1899, p. 255.

<sup>21</sup> *China*, No. 2, 1899, No. 2, p. 1.

1898, suggested "that the difficulties of the situation might perhaps be met by an arrangement between Russia and Great Britain, by which the latter should be bound not to interest herself in railway or mining concessions in Manchuria, Russia on her part binding herself in a similar manner with regard to the much richer and more populous district of the Yangtze." Mr. Balfour admitted that it was his strong belief that "great advantages would ensue if all the nations concerned could come to an arrangement on the basis of spheres of interest as regards railway and mining concessions (in China), or of even leaving the whole country equally open to the commerce of the world."<sup>22</sup> The idea of an arrangement was acceptable to both Powers, who, after numerous diplomatic discussions on the question, finally came to an agreement, whereby the Contracting Powers defined and agreed to respect their respective spheres of interest and their rights therein. It was pointed out that this agreement was not to apply to the railway line from Shan-hai-kwan to Newchwang, for the construction of which a loan had already been contracted by the Chinese Government with the Hongkong and Shanghai Banking Corporation. The agreement consisted in an exchange of notes, April 28, 1899, between Sir Charles S. Scott, the British Ambassador at St. Petersburg, and Count Mouraviev, the Russian Minister of Foreign Affairs. Inasmuch as the object of the agreement was to arrange, as Sir Charles described it, "the partition of spheres for concessions for the construction and working of railways in China," it is best to refer to the text of the note in order to see what the two Powers had actually agreed upon. The agreement, which has since been known as the

<sup>22</sup> China, No. 2, 1899, No. 13, p. 6.

“Scott - Mouraviev Agreement,” read thus:

“Great Britain and Russia, animated by a sincere desire to avoid in China all cause of conflict on questions where their interests meet, and taking into consideration the economic and geographical gravitation of certain parts of that Empire, have agreed as follows:

“1. Great Britain engages not to seek for her own account, or on behalf of British subjects or of others, any railway concessions to the north of the Great Wall of China, and not to obstruct, directly or indirectly, applications for railway concessions in that region supported by the Russian Government.

“2. Russia, on her part, engages not to seek for her own account, or on behalf of Russian subjects or of others, any railway concessions in the basin of the Yangtze and not to obstruct, directly or indirectly, applications for railway concessions in that region supported by the British Government.

“The two Contracting Parties, having nowise in view to infringe in any way the sovereign rights of China or existing treaties, will not fail to communicate to the Chinese Government the present arrangement, which, by averting all cause of complications between them, is of a nature to consolidate peace in the Far East and to serve the primordial interests of China herself.”<sup>23</sup>

What could be the possible effect or effects of such an agreement? The Contracting Parties were “animated by a sincere desire to avoid in China all cause of conflict on questions where their interests meet,” and this “desire” could be taken as the legitimate purpose for which the agreement was entered into. They also recognized the possibility that, “by

<sup>23</sup> W. W. Rockhill, *Treaties and Conventions With or Concerning China and Korea, 1894-1904*, p. 183.

averting all cause of complications between them," they were helping "consolidate peace in the Far East," and in that way serving "the primordial interests of China." The Contracting Powers also spoke of "the economic and geographical gravitation of certain parts" of China. Whether or not this "gravitation" could in any way be counteracted by the Agreement, they did not make clear. What was clear was the fact that each Contracting Party recognized in so many words the sphere of interest of the other. Russia undertook not to seek railway concessions "in the basin of the Yangtze" which is the British sphere of interest, and Great Britain, on her part, engaged not to seek railway concessions "to the north of the Great Wall of China"—a vast region, which includes South Manchuria, North Manchuria, and Outer and Inner Mongolia, and which, at the time of the exchange of the notes under consideration, was very much under the thumb of the Northern colossus. On the surface of the agreement, it contained nothing more than a mutual engagement not to invade into each other's economic field. But this self-denying engagement was in itself an official recognition of each other's sphere of interest in China. The practical effect of the Scott-Mouraviev Agreement, as it was so called, was, therefore, an economic division of China by the Contracting Powers. It could be something more; it was certainly nothing less. It was easy to see how the arrangement would serve the "primordial interests" of the Contracting Parties, but it was difficult to divine how it could be made to serve "the primordial interests of China herself." Technically speaking, such an agreement is *res inter alios acta*, and as such, it cannot be quoted against a third Power. In practice, however, theory has to yield to

reality. If the third Powers fail to protest or to signify reserves upon the publication of the arrangement, or when it becomes known, it is taken for granted that they accede to the views expressed and provisions made therein. In such cases, silence means consent.

Pursuing the similar policy, Great Britain entered into another railway agreement, but this time with Germany. On September 2, 1898, Mr. von Hanse-mann, the representative of a German Syndicate, on the one side, and Mr. W. Keswick, the representative of the British and Chinese Corporation, Ltd., and Messrs. Ewen Camerson and Julius Brussel, the representatives of the Hong-kong and Shanghai Banking Corporation, on the other, held conferences at London, and agreed to the following arrangement, for the partition of the respective economic spheres of Germany and Great Britain in China:

“It is desirable for the British and German Governments to agree upon the spheres of interest of the two countries regarding the railway construction in China, and to mutually support the interest of either country.”

This was a proposal made by the representative of the German Syndicate, and was agreed to by the British representatives. According to the minutes of the meeting, the German representative suggested the following arrangement:

“1. British sphere of interest, viz.—The Yangtze Valley, subject to the connection of the Shantung lines to the Yangtze at Chinkiang; the provinces south of Yangtze; the province of Shansi with connection to the Peking-Hankow line at a point south of Chen-ting and a connecting line to the Yangtze Valley, crossing Huangho Valley.

“2. German sphere of interest, viz.—The province of Shantung and the

Huangho Valley with connection to Tien-tsin and Chenting, or other point of the Peking-Hankow line, in the south with connection to the Yangtze at Chinkiang or Nanking. The Huangho Valley is understood to be subject to the connecting lines in Shansi forming part of the British sphere of interest, and to the connecting line to the Yangtze Valley, also belonging to the said sphere of interest."

The foregoing arrangement, proposed by M. A. von Hanseemann, the representative of the German Syndicate, met with the approval of the representatives of the British group. The same was also approved by the British Government. But it should be borne in mind that the above arrangement was agreed to by both parties on the condition that the following stipulations should be faithfully observed:

"The line from Tien-tsin to Tsinan, or another point of the northern frontier of the province of Shantung, and the line from the southern point of the province of Shantung to Chinkiang to be constructed by the Anglo-German Syndicate (meaning the German Syndicate on the one part, and the Hongkong and Shanghai Banking Corporation and the British and Chinese Corporation, Ltd., on the other part) in the following manner, viz.:

"1. The capital for both lines to be raised jointly;

"2. The line from Tien-tsin to Tsinan or to another point on the northern frontier of the province of Shantung to be built and equipped and worked by the German group;

"3. The line from the southern point of the province of Shantung to Chinkiang to be built and equipped and worked by the English group;

"4. On completion the said lines to be worked for joint account."

This constituted the details of the Anglo-German railway agreement, as found in the minutes of the proceedings of the meetings. The representatives at these meetings also agreed that neither the German Syndicate nor the British Group would be bound to construct the lines assigned to the spheres of the respective Powers, unless the Shantung lines were constructed simultaneously.<sup>24</sup>

It should be noted that this arrangement was signed, nominally, by the representatives of the private syndicates of Great Britain and Germany. As a matter of fact, all these groups had the most cordial support of their respective Governments, which had, from time to time, actually encouraged them in financing the construction of railways in China. Unlike the previous arrangement between Great Britain and Russia, this document frankly and openly recognized the spheres of interest of the Contracting Parties. The practical effect of this arrangement was, therefore, another economic division of China.

Still more interesting was the fact that, prior to the conclusion of the Anglo-German Railway agreement, Great Britain was anxious to curry favor with Germany. This was amply shown by the unusual willingness on the part of the British Government to undertake not to injure Germany's established interests in China. When Great Britain leased Weihai-wei from China for as long a period as Russia would remain in Port Arthur, she was most anxious not to offend Germany, but to show that she had not the slightest intention of interfering with

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<sup>24</sup> The minutes can be found in T. F. Millard, *Our Eastern Question*, Appendix I, pp. 444-445. Quoted by W. W. Willoughby, *Foreign Rights and Interests in China*, pp. 285-286. See also, *China*, No. 1, 1899, No. 312.



German activities in Shantung, which province was claimed as the German sphere of interest. In his instructions to Sir F. Lascelles, British Ambassador at Berlin, Mr. Balfour said, April 2, 1898: "You should inform the German Government, pointing out to them that the action of Russia forces this step on us. Its sole object is to maintain the balance of power in the Gulf of Pechili, which was menaced by Russia's occupation of Port Arthur. We do not anticipate this policy will give any umbrage to German interests in Shantung, since it is not possible to make Wei-hai-wei a commercial port, and it would never be worth while to connect it with the peninsula by railway. If desired, a formal undertaking on this point would be given."<sup>25</sup> In reply, Germany suggested that "England formally declares to Germany that she has no intention, in establishing herself at Wei-hai-wei, of creating difficulties for Germany in the province of Shantung or of injuring or contesting her rights there, and more especially that in that province she will not establish railway communication."<sup>26</sup> The British Government was willing to give a formal pledge, but not in the form suggested by Germany. In order to keep the question of the occupation of Wei-hai-wei separate from the general question of the interests of Germany and Great Britain in Shantung, Mr. Balfour suggested that the words "in that province" should be substituted by "between Wei-hai-wei and any part of the province of Shantung." To this suggestion, Count Hatzfeldt, German Ambassador in London, proposed that the last sentence of the declaration should be: "It is especially understood that England will not construct any railroad communication either

<sup>25</sup> China, No. 1, 1899, No. 2, p. 2.

<sup>26</sup> China, No. 1, 1899, No. 7, p. 5.

from Wei-hai-wei, or from any other point on the coast into the interior of the province of Shantung.”<sup>27</sup> But Mr. Balfour was insistent upon the point that the question arising out of the British lease of Wei-hai-wei, and the question of the German claims with regard to the construction of railways in Shantung, were different and entirely separate. And he added these significant words, which foreshadowed the conclusion of the Anglo-German railway arrangement as described in the above: “The second question is most complicated, because any arrangement arrived at with respect to Shantung would clearly involve some reciprocal arrangement in regard to regions in which Her Majesty’s Government has special interests, and, further because it would be most desirable to have some workable plan with regard to the construction and management of any through lines of railway which might, during part of their course, traverse some portion of the Shantung province.”<sup>28</sup> This “workable plan” was provided for in the Anglo-German railway arrangement, and declaration of non-interference volunteered by the British Government finally took this form: “England formally declares that, in establishing herself at Wei-hai-wei, she has no intention of injuring or contesting the interests of Germany in the province of Shantung, or of creating difficulties for her in that province. It is especially understood that England will not construct any railroad communication from Wei-hai-wei, and the district therewith, into the interior of the province.”<sup>29</sup>

The above assurance was given in an exchange of notes between Great Britain and Germany. The practical effect of

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<sup>27</sup> China, No. 1, 1899, No. 8, p. 6.

<sup>28</sup> China, No. 1, 1899, No. 9.

<sup>29</sup> Hertslet’s China Treaties, Vol. I, p. 584.

such an assurance was a recognition of the Shantung province as the German sphere of interest. "Downing Street has gone out of its way to promise the Berlin Foreign Office most faithfully," observed an English writer on Chinese affairs, "that we will never link up Wei-hai-wei with any Chinese railway system, and that we entirely acknowledge German rights in Shantung. It has never been made clear what reason existed for making either of these statements, and it seems impossible to reconcile either of these proclamations of the vaunted Open Door policy in China—which means the eighteen provinces, Manchuria, and the New Dominion (what about Mongolia and Tibet, we may ask)—with private admissions made the next moment to a European Power that we are going to further, to the best of our ability, the promotion of disintegrating schemes."<sup>30</sup> But Great Britain was not looking for reconciliation of her words with her deeds. This she knew to be impossible.

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<sup>30</sup> B. L. Putnam Weale, *The Reshaping of the Far East*, Vol. I, pp. 353-354.

## CHAPTER VI.

### The Hay Notes

THE parcelling out of the Chinese Empire by the European Powers as a result of the international scramble in 1897 and 1898 for leased territories and spheres of interest or of influence, menaced the maintenance of the old system, built upon the numerous treaty provisions for the most favored nation treatment, not for this or that Power alone, but for all the Powers having treaty relations with China. Unlike the predatory Powers of Europe, the United States, while anxious for her economic and commercial interests in China, remained a disinterested though not at all indifferent spectator of the game of international spoliation, in which she did not take the slightest part. She did not earmark any portion of Chinese territory as her own sphere of interest or of influence, nor was she so aggressive as to demand leases from China, such as the European Powers had done one after another. In short, in the battle for territorial concessions, the United States was not a participant. Her interests in China were commercial, not territorial. She was opposed to the partition of China. "We are, of course, opposed to the dismemberment of that Empire," wrote John Hay, then Secretary of State, in a letter to Paul Dana, editor of the *New York Sun*, "and we do not think that the public opinion of the United States would justify this Government in taking part in the great game of spoliation now going on. At the same time we are keenly alive to the importance of safeguarding our great commercial in-

terests in that Empire, and our representatives there have orders to watch closely everything that may seem calculated to injure us, and to prevent it by energetic and timely representations.”<sup>1</sup> In other words, anxious as she was to protect her immense commercial interests in China, she was averse to follow the examples of the European Powers to acquire bases of operation in order to achieve the end she had in view.

Now, the question naturally arose: How could the commercial interests of the United States in China be best looked after, without at the same time resorting to those tricks and artifices befitting only the role of a spoliator? The interests of the United States were menaced in two ways. In the first place, it was highly probable at the time that the Chinese Government, feeble as it was, might, under pressure from the foreign Governments, be forced to adopt rules and regulations adverse to the United States and to the Americans in China. In other words, the Chinese Government, owing to strong pressure from the aggressive Powers, might find itself unable to accord to the United States and her citizens that “equal treatment” and that “equality of opportunity” as provided for in the Chinese-American treaties. In the second place, the European Powers might, in their respective leased territories and spheres of interest, erect customs stations, over which they would have complete control and through which they would not permit the trade of the United States or of any other country to permeate. They might, in their respective territorial spheres, adopt other economic barriers, which would be favorable to their own interests, but detrimental, if not exactly hostile, to those of the United

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<sup>1</sup> William R. Thayer, *Life of John Hay*, Vol. II, p. 241.

States and of the other Powers. In either case, the feeble Government at Peking could do nothing to remedy the situation; and in either case, the interests of the United States and her treaty rights would be injured. What could the United States do, then, in order to protect her commercial interests and treaty rights in China, which were most seriously threatened? Should she demand a guarantee from the Chinese Government, or should she ask for it from those Powers who, because of their territorial possessions in China, were most capable of doing this little favor for her? Should she follow the example of Great Britain and carry water on both shoulders by contending for the Open Door policy and earmarking for herself a sphere of interest at one and the same time? Or, should she be prepared to fight for her interests and treaty rights in China, if her diplomatic representations and remonstrances failed to safeguard them?

There was but one answer. The United States was not willing to mark out for herself any territorial spheres in China in order to be better prepared to defend her rights and interests there. And although she was ready to make the most strenuous efforts in diplomacy, she was not disposed to resort to force in order to achieve the end she had in view. Her only choice was between demanding satisfactory guarantees from the Government in Peking and making representations to the European Powers that they should refrain from making use of their territorial spheres in China in discrimination against the interests of the United States and of the other Powers who were not as fortunately situated as they. The United States decided on the latter. Guarantees from the Peking Government would mean little or nothing if the Government

were not strong enough to enforce the treaty terms; and if the Government were strong enough to enforce the treaty terms, in the face or in spite of the high pressure from the European Powers, guarantees, even if demanded and obtained, were unnecessary. Thus, on the 6th of September, 1899, John Hay, Secretary of State, sent the following diplomatic note to Great Britain,<sup>2</sup> which, *mutatis mutandis*, was on the same day sent to Germany, France, and Russia, and later to Japan and Italy:

“The Government of Her Britannic Majesty has declared that its policy and its very traditions precluded it from using any privileges which might be granted it in China as a weapon for excluding commercial rivals, and that freedom of trade for Great Britain in that Empire meant freedom of trade for all the world alike. While conceding by formal agreements, first with Germany and then with Russia, the possession of ‘spheres of influence or interest’ in China in which they are to enjoy special rights and privileges, more especially in respect of railroads and mining enterprises, Her Britannic Majesty’s Government has therefore sought to maintain at the same time what is called the ‘open door’ policy, to insure to the commerce of the world in China equality of treatment within said ‘spheres’ for commerce and navigation. This latter policy is alike urgently demanded by the British mercantile communities and by those of

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<sup>2</sup>The note was not communicated to the Russian Government until September 20; to the British Government until September 22; to the German Government until September 26; and to the French Government until November 21. It was sent to the American Legation in Tokyo on November 13, and communicated to the Japanese Foreign Office on November 20. It was sent to the American Embassy in Rome on November 17, and communicated to the Italian Government on December 9.—John Bassett Moore, *A Digest of International Law*, Vol. V, pp. 534-546.

the United States, as it is justly held by them to be the only one which will improve existing conditions, enable them to maintain their positions in the markets of China, and extend their operations in the future. While the Government of the United States will in no way commit itself to a recognition of exclusive rights of any power within or control over any portion of the Chinese Empire under such agreements as have within the last year been made, it can not conceal its apprehension that under existing conditions there is a possibility, even a probability, of complications arising between the treaty powers which may imperil the rights-insured to the United States under treaties with China.

“This Government is animated by a sincere desire that the interests of our citizens may not be prejudiced through exclusive treatment by any of the controlling Powers within their so-called ‘spheres of interest’ in China, and hopes also to retain an open market for the commerce of the world, remove dangerous sources of international irritation, and hasten thereby united or concerted action of the Powers at Peking in favor of the administrative reforms so urgently needed for strengthening the Imperial Government and maintaining the integrity of China in which the whole western world is alike concerned. It believes that such a result may be greatly assisted by a declaration by the various Powers claiming ‘spheres of interest’ in China of their intentions as regards treatment of foreign trade therein. The present moment seems a particularly opportune one for informing her Britannic Majesty’s Government of the desire of the United States to see it make a formal declaration and to lend its support in obtaining similar declarations from the various Powers claiming ‘spheres of in-



fluence' in China, to the effect that each in its respective spheres of interest or influence:

"First, Will in no wise interfere with any treaty port or any vested interest within any so-called 'sphere of interest' or leased territory it may have in China.

"Second, That the Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within said 'sphere of interest' (unless they be free ports), no matter to what nationality it may belong, and that duties so leviabie shall be collected by the Chinese Government.

"Third, That it will levy no higher harbor dues on vessels of another nationality frequenting any port in such 'sphere' than shall be levied on vessels of its own nationality, and no higher railroad charges over lines built, controlled, or operated within its 'sphere' on merchandise belonging to citizens or subjects of other nationalities transported through such 'sphere' than shall be levied on similar merchandise belonging to its own nationals transported over equal distance."

The substance of this dispatch was communicated by Joseph H. Choate, American Ambassador at London, to Lord Salisbury, in a note of September 22, 1899, at the conclusion of which Mr. Choate said: "It is therefore with the greatest pleasure that I present this matter to your lordship's attention and urge its prompt consideration by Her Majesty's Government, believing that the action is in entire harmony with its consistent theory and purpose, and that it will greatly redound to the benefit and advantage of all commercial nations alike. The prompt and sympathetic cooperation of Her Majesty's Government with the United States in this important matter will be very potent in promoting its adoption by all the Powers concerned."

On September 29, Lord Salisbury acknowledged the receipt of the communication, and, in reply, he said that he would like to have time for considering the proposals of the United States more fully with his colleagues. About one month later, on November 30, in a note to Mr. Choate, Lord Salisbury accepted most cheerfully the proposals of the United States. The language he used was most specific: "I have much pleasure in informing your excellency that Her Majesty's Government will be prepared to make a declaration in the sense desired by your Government in regard to the leased territory of Wei-hai-wei and all territory in China which may hereafter be acquired by Great Britain by lease or otherwise, and all spheres of interest now held or that may hereafter be held by her in China, provided that a similar declaration is made by other Powers concerned."

France was the second Power to accede to the proposals of the United States, in language as specific as that of Great Britain, and with the same understanding that the acceptance given was conditional upon the fact that the other interested Powers would give similar pledges. M. Delcassé, French Minister of Foreign Affairs, declared, in a note to the American Embassy in Paris, December 16, 1899, that the sentiment of the French Government was entirely in favor of the maintenance of the equality of opportunity and treatment in matters of trade and navigation such as the Powers had hitherto enjoyed in the Chinese Empire. "It desires throughout the whole of China and, with the quite natural reservation that all the Powers interested give an assurance of their willingness to act likewise, is ready to apply, in the territories which are leased to it, equal treatment to the citizens and

subjects of all nations, especially in the matter of customs duties and navigation dues, as well as transportation tariffs on railways." It should be noted that M. Delcassé undertook to apply the American proposals to the leased territories only. Nothing was said about the sphere of interest or influence which France claimed in China. It was perhaps the opinion of the French Government that the sphere which France had earmarked in China was economic and not political, and in it France had no power or right to make rules or regulations adverse to the commercial interests of the other Powers. It was only in the leased territories, where she had jurisdictional rights delegated to her by the Chinese Government for the stated term of years, that she was free to make her own rules and regulations, and to adopt tariff measures favorable to her own interests and adverse to those of the other Powers. It was apparently with this view in mind that the French Foreign Minister considered it quite sufficient to assure equal treatment in the territories leased to France, and not in the economic spheres that she had claimed.

The answer of Japan, who was the fourth Power to accept in principle the Hay proposals, was also conditional. Viscount Aoki, Japanese Minister of Foreign Affairs, declared that "the Imperial Government will have no hesitation to give their assent to so just and fair a proposal of the United States, provided that all the other Powers concerned shall accept the same." While it must also be said that such conditional acceptance as this could mean very little in the time of emergency, and the Power who gave it could back out of it with ease whenever she should choose to. Indeed, in the case of a power having no particular reputation for good faith, the

value of a conditional promise such as this was nil. In his diplomatic instructions to Mr. Choate on the matter of presenting his proposals to the British Government, Secretary Hay made this observation: "The interests of Japan, the next most interested Power (next to Great Britain) in the trade of China, will be so clearly served by the proposed arrangement, and the declarations of its statesmen within the last year are so entirely in line with the views here expressed, that its hearty co-operation is confidently counted on." It was apparent that Secretary Hay expected much from Japan and "counted on" her "hearty co-operation." The conditional acceptance which Japan gave, was, therefore, disappointing and unsatisfactory, in view of Secretary Hay's high expectation of her.

Still more unsatisfactory and, therefore, still more disappointing, was the answer from Russia, the Power it was most desirable to commit in view of her aggressive designs in North China at that time. Russia was reminded of the fact that, when she leased Port Arthur and Taliénwan from China, she gave categorical assurances to the United States that American interests in that part of the Chinese Empire would in no way be affected thereby, that it was not the intention of Russia to interfere with the trade of other nations, and that American citizens would continue to enjoy within the said leased territories all the rights and privileges guaranteed them under existing treaties with China. "However gratifying and reassuring such assurances may be in regard to the territory actually occupied and administered, it can not but be admitted that a further, clearer, and more formal definition of the conditions which are henceforth to hold within the so-called Russian 'sphere of interest' in China as regards the com-

mercial rights therein of our citizens is much desired by the business world of the United States, inasmuch as such a declaration would relieve it from the apprehensions which have exercised a disturbing influence during the last four years on its operations in China." Accordingly, Russia was requested to declare those principles, which Secretary Hay had formulated and presented to Great Britain and the other Powers, and which were identical to those quoted above in the note to the British Government. On December 30, 1899, Count Mouraviev, Minister of Foreign Affairs, wrote this reply:

"In so far as the territory leased by China to Russia is concerned, the Imperial Government has already demonstrated its firm intention to follow the policy of the 'open door' by creating Dalny (Talienwan) a free port; *and if at some future time that port, although remaining free itself, should be separated by a customs limit from other portions of the territory in question, the customs duties would be levied, in the zone subject to the tariff, upon all foreign merchandise without distinction as to nationality.*

"As to the ports now opened or hereafter to be opened to foreign commerce by the Chinese Government, and which lie beyond the territory leased to Russia, the settlement of the question of customs duties belongs to China herself, and the Imperial Government has no intention whatever of claiming any privileges for its own subjects to the exclusion of other foreigners. *It is to be understood, however, that this assurance of the Imperial Government is given upon condition that a similar declaration shall*

*be made by other Powers having interests in China.*<sup>3</sup>

“With the conviction that this reply is such as to satisfy the inquiry made in the above mentioned note, the Imperial Government is happy to have complied with the wishes of the American Government, especially as it attaches the highest value to anything that may strengthen and consolidate the traditional relations of friendship existing between the two countries.”

From the above answer, three things stood out in bold relief. The request by the United States for “a further, clearer, and more formal definition of the conditions which are henceforth to hold within the so-called Russian ‘sphere of interest’ in China” was entirely ignored. The answer was, moreover, “given upon condition that a similar declaration shall be made by other Powers having interests in China.” And, lastly, Russia took this opportunity to make a reservation that, although Talienwan had been declared a free port, a customs zone might be created therein “at some future time.” Russia was gracious enough to say that “the customs duties would be levied, in the zone subject to the tariff, upon all foreign merchandise without distinction as to nationality.” But she failed to specify whether the tariff she spoke of was one of China or one of Russia. Nor was she any too clear as to the meaning of “foreign merchandise.” Would she consider Russian goods found in the customs zone as foreign merchandise, or would she consider them merely as “Russian goods,” that is, domestic goods, and therefore subject them to a different tariff or no tariff at all? If the customs zone were to be created by the Chinese Government and the tariff to be applied

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<sup>3</sup> The *italics* in this and the other quotations are the author's.

were a Chinese tariff, it would be neither necessary nor desirable for Russia to point out in her diplomatic communication with the United States what China might or might not do in the future. If the customs zone were to be demarcated by Russia herself, and the tariff were to be a Russian tariff, then this would be the very condition of affairs which the United States sought to avoid and against which she was, with the assistance of Russia, anxious to provide. And to go one step further, we may ask what did Russia mean by "all foreign merchandise"? Would she or would she not include her own goods—goods of her own make—among the "foreign merchandise"? If she would, it would be, then, a clear case of the misuse of the language; if she would not, she would thereby establish a practice of unequal treatment in trade, and would violate the very fundamental principle of the Open Door policy which she said she had "firm intention to follow." With these interrogations in mind, and their possible answers, one could not avoid the conclusion that the Russian reply was, not only evasive and non-committal, but, on careful inspection, a decisive but highly subtle rejection of the American proposals.

What has been said about the Russian reply thus far is based upon the official documents exchanged between the Governments of Russia and the United States. Behind this facade of official generalities, however, there was yet one more interesting story that preceded the "acceptance" by Russia of the Hay proposals. It was said that when Mr. Tower, American Ambassador at St. Petersburg, called at the Russian Foreign Office to present the proposals of the United States, he was given to understand, directly or indirectly, that the Russian Government would not make any

formal declarations as requested. Indeed, on those three proposals which Hay formulated, the Russian Government would make no declaration at all. Count Mouraviev, the Russian Foreign Minister, gave, however, "an oral promise to do what France would do."<sup>4</sup> From the standpoint of diplomacy, this answer was admittedly an ingenious one. France was an ally of Russia, and it was reasonable to suppose that what the Russian Government had declined the French Government would not accept. By promising to do what France would do, therefore, the Russian Foreign Minister was turning down, or thought he was, the proposals of the United States and, at the same time, shifting the responsibility of the refusal upon the shoulders of the French Government. No sooner, however, was this promise made by the Foreign Minister than he learned that the French Government had, on December 16, 1899, already replied to the American proposals, and declared itself to be in favor of "equal treatment (in the French leased territories in China) to the citizens and subjects of all nations, especially in the matter of customs duties and navigation dues, as well as transportation tariff on railways." Because of this favorable reply by the French Government, which was apparently unsuspected by the Foreign Minister, "he flew into a passion, and insisted upon it that Russia would never bind herself in that way; that whatever she did she would do alone and without the concurrence of France." "Still," Mr. Hay pointed out in a letter to Henry White, under the date of April 2, 1900, "he did say it, he did promise, and he did enter into just that engagement. It is possible that he did so thinking that France

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<sup>4</sup> William R. Thayer, *Life of John Hay*, Vol. II, p. 243.



would not come in, and that other Powers would not.”<sup>5</sup> The mistake which Count Mouraviev had made in promising to do what France would do, was, however, easily retrieved. After a lapse of more than three months,<sup>6</sup> the Russian Minister of Foreign Affairs, gracefully and no less graciously, “complied with the wishes of the American Government” in a note which we have quoted in the above and which we have just analyzed in all its evasive aspects.

It was to Italy, however, that the honor of an unconditional and unqualified acceptance was due. And this not without reason. As the governments of the other countries, the Government of Italy, whose commercial interests in China were said to be “important and growing,” was requested to “give formal assurances” that perfect equality of treatment in matters of commerce and industry should be observed. Secretary John Hay, “animated with a sincere desire to insure to the commerce and industry of the United States and of all other nations perfect equality of treatment within the limits of the Chinese Empire for their trade and navigation, especially within the so-called ‘spheres of influence or interest’ claimed by certain European Powers in China,” decided, apparently in a moment of enthusiasm, to invite the acceptance by the Italian Government of the same proposals made to the other Powers, quite oblivious of the fact that Italy, unlike the other Powers, had not had any spheres of interest or leased territories in China. Italy, as we can recall, did make a claim for the Sammen

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<sup>5</sup> W. R. Thayer, *ibid.*

<sup>6</sup> The American proposals were sent to Mr. Tower at St. Petersburg on September 6, 1899, and were communicated by him to the Russian Foreign Office, September 20. It was not until December 30, that Count Mouraviev sent the foregoing note in reply.

Bay, which, though strongly supported by the British Government, was not acceded to by the Chinese Government. The failure of obtaining a territorial base of operation on the Chinese coast was not at all a disappointment to Italy, in view of the fact that her commercial interests in China, though said to be "important and growing," were, for practical purpose, very little and comparatively insignificant. And now she was honored with the request to accede to the three proposals of the United States—proposals which, as a matter of fact, should not have been submitted to her at all, inasmuch as they were all concerned with the trade rights in the leased territories and spheres of interest or influence in China, of which she had neither the one nor the other. She would be pleased, of course, to do this little courtesy to the United States. Thus, on January 7, 1900, the Marquis Visconti Venosta, Minister of Foreign Affairs of Italy, accepted unconditionally and unreservedly the American proposals.

The last one to reply to the Hay note, though among the first ones communicated with, was Germany, who virtually took no notice of the matter until she was told that the Government of the United States had received "satisfactory written replies" from all the other Powers and was once more requested to give an answer in writing. On February 19, 1900, Count von Bulow sent to the American Embassy in Berlin the following note in reply, which was as significant and as evasive as that of Russia, though not quite as obscure and ambiguous in language:

"As recognized by the Government of the United States of America," the German reply read, "the Imperial Government has, from the beginning, not only asserted, but also practically carried out

to the fullest extent, *in its Chinese possessions*, absolute equality of treatment, and commerce. The Imperial Government entertains no thought of departing from all nations with regard to trade, navigation in the future from this principle, which at once excludes any prejudicial or disadvantageous commercial treatment of the citizens of the United States of America, *so long as it is not forced to do so, on account of considerations of reciprocity, by a divergence from it by other governments*. If, therefore, the other Powers interested in the industrial development of the Chinese Empire are willing to recognize the same principles, this can only be desired by the Imperial Government, which in this case upon being requested will gladly be ready to participate with the United States of America and the other Powers in an agreement made upon these lines, by which the same rights are reciprocally secured.”<sup>7</sup>

Here we have before us all the replies from Japan and from the European Powers to the proposals of the United States. It is striking to see that but one Power expressed her adhesion to them unconditionally and unreservedly, and that not a single Power made the “formal declaration” which Secretary Hay suggested. Not dismayed by the vagueness of language in which some of the Powers expressed their readiness to adhere to his proposals, and encouraged by the fact that all Powers, in spite of the apparent difference in their respective policies and interests in China, professed, one and all, for the principle of the Open Door, Sec-

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<sup>7</sup> For the entire correspondence between the United States on the one side and Japan and the European Powers on the other, see either U. S. For. Rel. 1899, pp. 128-140; or J. B. Moore, A Digest of International Law, Vol. V, pp. 534-546. Passages quoted in the above pages where the sources are not indicated are taken from Moore's Digest.

retary Hay announced, on March 20, 1900, that he considered the "acceptance" by the various Powers concerned as "final and definitive." He was, apparently, willing to take conditional replies, with definite reservations in some cases, as sufficient equivalent to the "formal declaration" which he had at first eagerly suggested. There could be no doubt that, with the possible exception of Italy, not one of the Powers concerned wished to agree to the proposals of the United States. Each saw more profit to herself in exploiting what she had already secured from China and in joining in the scramble for more. But the proposals which the United States had the courage to put forward, though influenced largely by considerations of her own commercial interests and treaty rights in China, were of such a nature that an open refusal to accept by any one of the Powers interested would be tantamount to an admission of the desire to deny to the United States the right to equal treatment that she could claim under the existing treaties with China. Such a denial would be most fruitful of serious consequences, if the United States were determined to use the extreme means to have her rights and interests safeguarded. It would bring on troubles, not only between China and the United States, but also between the latter and the Power or Powers who should openly decline. That Russia, Germany, and the other Powers were not unmindful of this possible serious situation was responsible for the conditional acceptance they each gave. No one dared openly oppose, and every one was afraid of serious complications with her in case of refusal. "It was as if, in a meeting, he had asked all those who believed in telling the truth to

stand up, the liars would not have kept their seats.”<sup>8</sup>

The outbreak of the Boxer Rebellion was responsible for another note, which Secretary Hay sent out on July 3, 1900, in which he came forward with a declaration of the American policy *vis-a-vis* China, and to which he invited the adhesion of the European Powers and Japan. “In this critical posture of affairs in China it is deemed appropriate to define the attitude of the United States as far as present circumstances permit this to be done. We adhere to the policy initiated by us in 1857 of peace with the Chinese nation, of furtherance of lawful commerce, and of protection of lives and property of our citizens by all means guaranteed under extraterritorial treaty rights and by the law of nations. If wrong be done to our citizens we propose to hold the responsible authors to the uttermost accountability. We regard the condition at Peking as one of virtual anarchy, whereby power and responsibility are practically devolved upon the local provincial authorities. So long as they are not in overt collusion with rebellion and use their power to protect foreign life and property we regard them as representing the Chinese people, with whom we seek to remain in peace and friendship. The purpose of the President is, as it has been heretofore, to act concurrently with the other Powers; first, in opening up communication with Peking and rescuing the American officials, missionaries, and other Americans who are in danger; secondly, in affording all possible protection everywhere in China to American life and property; thirdly, in guarding and protecting all legitimate American interests; and, fourthly, in aiding to prevent a spread of the disorders to the other provinces of the Empire and

<sup>8</sup> W. R. Thayer, *op. cit.*, Vol. II, p. 243.

a recurrence of such disorders. It is, of course, too early to forecast the means of attaining this last result; but the policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly Powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire.”<sup>9</sup>

It should be noted that this was the first time that the United States came out with the proposal of maintaining China's “administrative and territorial entity” as a necessary means to the maintenance of the Open Door policy. According to an authority who was personally acquainted with the author of the phrase, “*administrative entity*” means the administrative independence of China, and “*territorial entity*” meant her territorial integrity. Being a man of letters, Secretary John Hay, who penned the circular note July 3, was very particular in the choice of words. “What he sought to prevent was the dismemberment of China either by avowed cessions of territory, or by arrangements which, under the guise of leases or otherwise, left her a nominal title to her domain, without administrative power or control. When we wish to convey the antithesis of territorial dismemberment, we usually speak of ‘territorial integrity;’ but the word ‘integrity,’ when used in connection with public administration, suggests rather a correct standard of official conduct. Mr. Hay, before he achieved distinction as a statesman, was a man of letters, famous for his wit and humor and for a nice discrimination in the use of words. He evidently had no wish to pose as a diplo-

<sup>9</sup> U. S. For. Rel. 1900, p. 299.

matic knight, anxious to break a lance in the cause of China's 'administrative integrity.' He, therefore, said 'territorial and administrative entity.'"<sup>10</sup> According to another authority, the word "entity" was used in place of "independence" and "integrity" for the simple reason that it was very doubtful whether these words could be applied with accuracy to the situation existing in China then.<sup>11</sup> That Mr. Hay did mean by "entity" the independence and integrity of China was shown by the fact that in the later documents he spoke of them without further regard for the nicety of language. The attention should also be called to the fact that, in presenting the note to the British Government, Mr. J. H. Choate, the American Ambassador at London, made a little variation of the language used. He said in his note that the policy of the United States was to "preserve Chinese territory and administrative entity."<sup>12</sup> At any rate, it is not necessary to inquire into the deeper meanings of these words. It is sufficient to say that, if the Open Door policy is ever to be maintained in China at all, then it is necessary to maintain her independence and integrity first. Without an independent and integral China, where and how can the Open Door policy operate?

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<sup>10</sup> J. B. Moore, "Mr. Hay's Work in Diplomacy, *The American Review of Reviews*, August, 1905, p. 174.

<sup>12</sup> *China*, No. 1, 1901, No. 7.

<sup>11</sup> "Great Britain has been obliged to abandon the policy of endeavoring to preserve intact the full territorial integrity of China, to recognize the rights of Germany in Shantung and of Russia in Manchuria, and even to participate herself in the partial dismemberment of China by taking Wei-hai-wei. . . . So that Secretary Hay is obliged to speak of preserving the 'entity' of China, her integrity being already gone."—Josiah Quincy, *The Contemporary Review*, July, 1900, p. 191.

## CHAPTER VII

### The Open Door Policy Defined

**A**S has been pointed out at the very outset of our discussion of the subject, the meaning of the Open Door is somewhat enigmatical. Like a cut diamond, it has different facets, each of which reflects a certain amount of truth, and the interested governments have used it in whatever way best suited their ambitions and designs in China. They do not care to know, and far much less to define, what the Open Door policy is, what it means and what it does not mean. A clear definition of the policy will undoubtedly tie the hands of the Powers that are ready to play fast and loose with it, and those Powers who have ambitious designs in China will never allow their hands tied. On the other hand, individual writers, and international partisans in particular, who have special interest to serve, cannot, of course, give an impartial view of the exact meaning of the policy. Their views and opinions, be they honest or not, are, therefore, equally divergent as to what the principle of the Open Door actually implies and what it does not imply. It is precisely because of this reason—this lack of a clear and accepted definition, that the Open Door policy is virtually at the mercy of the governments who choose, for their own convenience and interests, to interpret it in their own ways. It is because of this reason that the Open Door policy has never been clearly defined that partisan writers, imposing upon the proverbial ignorance of the general public and having a special axe to



grind, do not hesitate to place it in absolutely false light.

In the last few years, the talk has attained a sort of epidemic recurrence that this or that Power has violated the Open Door policy in China, and this or that arrangement will help preserve the policy. On the surface of the matter, it seems idle to speak of violations of the Open Door policy, without knowing, in the first place, what the policy is, or to speak of its preservation without first ascertaining what it is that is to be preserved. What is the Open Door policy? What does it seek to establish? "It is a remarkable fact," said a Japanese scholar, "that the Powers have never openly discussed what constitutes a violation of the principle of equal opportunity. The establishment of a clear definition of this point is a matter of the highest importance for the peaceful development of China."<sup>1</sup> It may be added that if the Powers have never openly discussed what constitutes a violation of the Open Door policy, it is because they have never openly defined what the policy is or is not. The repeated diplomatic notes exchanged among the interested Powers on the subject, and the numerous international agreements concluded among themselves, each with the maintenance of the Open Door in China as its ostensible object, are significant, not for their commissions, but for their omissions. The language in official documents is uniformly too general either to nail down all the governments actually pledged to the policy, or to enable any one to place his finger on the exact infractions of it. Besides, it is a notorious fact that the Power who is really guilty of any infraction or violation of the principle of the policy will, very naturally, endeavor to interpret her

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<sup>1</sup> K. Asakawa, *Japan in Manchuria*, Yale Review, November, 1909, p. 167.

action in such a way and the principle of the policy in such a light as to serve a convenient defence for herself. On the other hand, one who points his accusing finger to any violation of the policy, real or imaginary, by any particular Power or Powers is apt to exaggerate the case and to read into the policy meanings which it does not contain or which it does not seek to establish. In consequence, the Open Door policy is but little understood today. And this is in spite of the fact that it has been made the subject of many diplomatic conversations, notes, and understandings, and that it has been regarded as the scarce, but in this case none too valuable, touchstone of the American, Japanese, and European diplomacy in China. A vague idea of the policy is generally assumed, but its precise meaning is often obscure. It is with the purpose of throwing more light on the subject that we make an attempt here at a definition of the Open Door policy in all its aspects. It is nothing more than an attempt—one which has never been made before, for it remains for the governments pledged to the policy to give an official and therefore authoritative definition of it. This will not be done yet for some time, and possibly it will never be done at all.

What is the Open Door policy, then? What fundamental principle underlies the policy? What does it seek to establish? How wide is the scope in its application? Is it commercial, or political, or both? These are legitimate questions to be considered in order to understand the policy in its true sense. An adequate answer to any or all of these questions would naturally call for a retrospect of the events of the past and an anticipation of those of the future. That is to say, a correct and adequate definition of the Open Door policy can

be arrived at only by taking into careful consideration its early history, which we have already recounted, and its future development, which we must anticipate at this stage of our narrative. Before proceeding, however, to define what the Open Door policy is, it may seem better, in the interest of clearness, to point out first what it is not.

In the first place, let us emphasize the point once again that the so-called Open Door policy of today is not of American origin. It is wrong to think, as many do, that John Hay, Secretary of State of the United States, from September 20, 1898, to July 1, 1905, had originated the policy in his two diplomatic circulars which we have discussed and analyzed in the previous chapter. It is equally erroneous to assume that the term "Open Door" was of American coinage, with an American stamp on it. It has been most authoritatively stated that, "although the institution of that policy is popularly associated in the United States with Mr. Hay's circular of September 6, 1899, neither the phrase nor the principle denoted by it in any sense originated with that measure."<sup>2</sup> And no less an authority than his own biographer pointed out that Mr. Hay "did not originate the phrase."<sup>3</sup> As a matter of fact, the term "Open Door" was, in 1897 and 1898, on the lips of every British resident in China. It was a catch-phrase, used at the time by British merchants in China to mean that, if they were to continue to enjoy their commercial profits in China, they should enjoy equal trade facilities and privileges with the nationals of other Powers. When Lord Charles Beresford was sent, in the fall of 1898, on a mission to investigate

<sup>2</sup> John Bassett Moore, *The Principles of American Diplomacy*, p. 179.

<sup>3</sup> William Roscoe Thayer, *op. cit.*, Vol. II, p. 242.

and to report to the Associated Chambers of Commerce in London the economic and political conditions in China, he was confronted with practically a unanimous opinion of the British merchants in the Far East that the policy of the Open Door, or equal opportunity of trade, was the only policy under which it was possible to develop British commerce with China. Lord Charles was the recipient of numerous petitions, recommendations, and resolutions, which the British communities in the Far East presented to him with the purpose that through him the attention of their Government at home should be called to the necessity of maintaining the traditional principle of equal treatment and equal opportunity, for which they had adopted a new name, the Open Door policy. At Canton he was requested to assure the Associated Chambers of Commerce in London that "the policy of the Open Door was absolutely essential for the continuance of British trade in the South of China." At Amoy, Hankow, Shanghai, Tien-tsin, Newchwang, Foochow, and other commercial ports in China, similar resolutions were passed and presented to him with the hope that, upon his return to England, the attention of the people and the Government at home might be alike called to the danger with which the Open Door was confronted, and to the necessity of the maintenance of the policy for the development of the British trade in China in the future.<sup>4</sup>

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<sup>4</sup>The British Chamber of Commerce at Tien-tsin, for instance, passed, on October 24, 1898, the following resolution: "That this meeting of the Tien-tsin Chamber of Commerce welcomes the mission of Rear-Admiral Lord Charles Beresford, from the Associated Chambers of Commerce of Great Britain, and unanimately desires to record its conviction that *the policy of preserving the integrity of China, with a guarantee of an 'Open Door,' a fair field, and increased trading facilities for all countries, is the best and most sound for all foreign trading communities in China,* and hereby desires Lord Charles Beresford

This cry for the Open Door, by the British merchants in Chinese treaty ports in particular and in the Far East in general, was immediately taken up by politicians at home and by diplomatic and consular representatives abroad. In both houses of the British Parliament, for instance, the cry was echoed and re-echoed, amidst the debates on the Chinese affairs at the time, when the political future of China was seriously at stake. Lord Curzon, Lord Balfour, Lord Salisbury, and other men of political prominence were among the first government officials in Great Britain to use the term, which they found to be a summary and very convenient expression of her intended policy in China.

Thus, in a very short time, the "Open Door" policy became an accepted term. Politicians and government officials used it; merchants employed it, and finally, the press of Great Britain re-echoed it daily. Indeed, in a short time the American press joined in the cry for the "Open Door" with as much vigor as the English merchants in treaty ports in China had shown. It was pointed out that even the American Commissioners at Paris, negotiating peace with Spain at the end of the American-Spanish War, could not resist

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to convey the resolution of this Chamber." (Italics are the author's.) The Foochow Chamber of Commerce passed, on December 22, 1898, a still more significant resolution: "That the General Chamber of Commerce of Foochow desires to avail itself of the opportunity of your Lordship's visit to place before you its endorsement of the views already expressed by the other Chambers of Commerce in China, viz.: (1) That the 'sphere of influence' policy, so called, would be fatal to the interests of British trade and commerce in China; (2) That we earnestly hope that the declaration of Her Majesty's Government with regard to the maintenance of the 'Open Door' will be strictly adhered to; (3) *That in order to keep the 'Open Door' for the trade of all nations, it is necessary that the integrity of China should be preserved.*"—Lord Charles Beresford, *The Break-up of China*, pp. 470, 479.

the piquancy of the term. "The phrase was used, as a current form of expression, by the American Peace Commission at Paris in 1898, in the demand, under instruction from their Government, for the cession of Philippines. In that demand they expressly declared it to be the purpose of the United States to maintain in the islands 'an open door to the world's commerce.'"<sup>5</sup> And later, in an eloquent speech at the dinner given on February 23, 1899, by the American Asiatic Association in honor of Lord Charles Beresford, who was then passing through the United States en route to England, Mr. Whitelaw Reid, one of the American Peace Commissioners at Paris, declared that the "Open Door" policy was the best policy for American trade in the Philippines and in China, and that the American Government intended to commit itself to this policy as far as the Philippines were concerned.<sup>6</sup>

<sup>5</sup> *The New York Tribune*, February 24, 1899. It is thus evident that the Open Door had been a current expression long before John Hay was called to head the Department of State at Washington.

In this connection, it may be also interesting to call attention to the fact that, when practically whole England was agitating for the maintenance of the Open Door in China, and when British statesmen were almost daily eulogizing upon the virtues of the policy and predicting the evils and disadvantage that would follow its abandonment, Mr. Hay was serving as American Ambassador at London—the listening post of political whisperings of the entire world. It would be unreasonable to suppose that he did not take notice of the debates in the parliament or of the agitations in the press. It would be absurd to assume that, as the

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<sup>6</sup> John Bassett Moore, *The Principles of American Diplomacy*, p. 179.

representative of the American Government, he was unaware of or unacquainted with the views of the statesmen in England who were guiding the course of her foreign policy. To him, therefore, the term "Open Door" was indeed a very familiar one, and to him the necessity for the maintenance of the traditional practice of equal treatment in China and by China was more than obvious. When Mr. Hay was recalled from the Court of St. James to take charge of the Department of State in September, 1898, it was very natural that he should have carried out a policy, which he had honestly believed to be the best for the development of American trade and commerce in China in the time to come. What was strange was the fact that he did not use the term "Open Door" at all in his circular note of September 6, 1899, to which the origin of the policy has been popularly, but very erroneously attributed ever since.

Another interesting fact in this connection—one which has been very little taken notice of, was that Mr. Hay did not take any action in regard to the Open Door until almost a year after his assumption of office. He was appointed Secretary of State on September 20, 1898, and it was not until September 6, 1899, almost a year, that he sent out his first circular note that has since become so famous. His inaction was explainable on two grounds. In the first place, the prevalent anti-British sentiment at that time was almost morbid in the United States. He was frankly afraid of taking any step in defense of the American interests in China, which closely resembled, or practically coincided with the British cry for the Open Door policy. "What can be done in the present diseased state of the public mind?", he inquired in a letter to John W. Foster.

“There is such a mad-dog hatred of England prevalent among newspapers and politicians that anything we now should do in China to take care of our imperilled interests, would be set down to ‘subservience to Great Britain.’”<sup>7</sup> It was apparently due to this reason that Mr. Hay took no action to safeguard the American interests in China until almost a year after his coming to office; and it may be ventured, the same reason would account for the fact that, when he gathered enough courage to send his first diplomatic circular to Japan and to the European Powers, he did not use, nor did he refer to, the Open Door policy in the note, which was distinctly a British invention and a British cry. Like other people, the Americans desired, of course, to have their commercial interests in China protected, and if the so-called “Open Door” could in any way serve their purpose, they would have it as well as not. They were, however, anxious to take the lead themselves, instead of following that of Great Britain, which would be the most unpopular and most distasteful thing to do, in view of the morbid anti-British sentiment then prevalent in the country.

There was another ground on which the hesitation on the part of the Secretary of State to take any decisive step was explainable. The commercial classes in the United States, while fully realizing the necessity of keeping the door open in China if American trade there was to be developed at all, made no practical effort for the attaining of their purpose, nor did they urge upon the Government to do so for them. Of this significant sentiment, Lord Beresford was a personal witness. He said:

“The principle of the ‘Open Door’ is unanimously held to be the policy neces-

<sup>7</sup> W. R. Thayer, *op. cit.*, Vol. II, p. 234.



sary for the increase of the United States trade with China; but there the matter rests. I heard no sentiments expressed which conveyed to me any opinion on the part of any of the American Chambers of Commerce as to how the 'Open Door' principle was to be insured, although I did hear many opinions expressed that the time could not be far distant when the Chinese Empire would be added to the list of those countries which had fallen to pieces from internal decay. Though the great trading classes of the United States, as far as I could gather, are keenly alive to the necessity of safeguarding the future of the United States' commercial interests, it was quite apparent to me that those in authority, and indeed the people as a whole, are, for the present, at any rate, going to allow Chinese affairs to take care of themselves. It was very satisfactory to me to be frequently told that the fact of the British Associated Chambers having sent a Mission of Inquiry to China, would provoke an interest among the commercial classes of the United States with regard to the future of China. The attitude taken up by the commercial classes in Japan was totally different from that which I found in the United States. Both saw the necessity of keeping the Door open in China if full advantage was to be taken of the possible development of American or Japanese trade; but while on the Japanese side there was every indication of a desire to act in some practical manner in order to secure the Open Door, I could discover no desire on the part of the commercial communities in the United States to engage in any practical effort for preserving what to them might become in the future a trade, the extent of which no mortal can conjecture. On many occasions I suggested that some sort of

understanding should exist between Great Britain and the United States for the mutual benefit of the two countries with regard to the future development of trade in China; but while receiving the most cordial support to this proposal, nothing of a definite character was suggested to me that I could present to the Associated Chambers.”<sup>8</sup>

Now, as to the principle which the Open Door policy involves, it must be said, as has been said before, that it is no more American in origin than the term itself. Before the arrival of the saturnalia of the battle for concessions, all Powers trading in or with China had uniformly enjoyed equal treatment and equal opportunity. The most favored nation clause which can be found in all the commercial treaties between China and the foreign Powers left her no choice but to give them equal treatment and equal opportunity. “She has treaty relations with all the European Powers, together with the United States, Brazil, Peru, Mexico, Japan, and Korea. All these are equally favored nations in every sense of the term. The Swede and the Dane enjoy the same rights, privileges, immunities, and exemptions with respect to commerce, navigation, travel, and residence throughout the length and breadth of the Empire as are accorded to the Russian or to the Englishman. Any favor that may be granted to Japan, for instance, at once inures to the benefit of the United States.”<sup>9</sup> And this equal treatment, be it noted, was much more comprehensive than the principle enunciated by Mr. Hay in his first circular was ever intended to be. The equal treatment as guaranteed by the most favored

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<sup>8</sup> Lord Charles Beresford, *The Break-up of China*, pp. 442-444.

<sup>9</sup> Dr. Wu Ting-fang, *Mutual Helpfulness Between China and the United States*, *The North American Review*, July, 1900.

nation clauses was universal, applicable throughout "the length and breadth of the Empire," as Dr. Wu observed. The equal treatment which Mr. Hay sought to establish or to be assured of by the European Powers and Japan was applicable, as far as it could be discerned from the language of the note, to leased territories and spheres of interest only. It was obvious, therefore, that the so-called Open Door principle embodied in the Hay note of September 6, 1899, was nothing more, so to speak, than a sort of diluted old wine with a new label on it. The name, the Open Door policy, be it applied to the Hay principle of 1899 or not, is indeed new, but the principle which underlies the policy is as old as the story of the Opium War. It has been well said that "the United States, in espousing the cause of the 'Open Door' in China in 1899, sought, not to establish a new principle there, but to prevent the abandonment of the old for the policy of leases and spheres of influence which the European Powers, whether with a view to self-aggrandizement or to the avoidance of war with one another, seemed ready to adopt."<sup>10</sup> The best and most that can be said about the Hay principle as embodied in his circular note of three proposals, from which nothing of a definite and binding nature resulted as judged from the Powers' replies thereto (and it was therefore far from establishing the Open Door policy) was that the note served to awaken the Powers' consciousness of the grim fact that the traditional practice of equal treatment was being cut from under its feet by the erection of territorial spheres. The Golden Rule, that had hitherto underlain China's commercial dealings with the foreign Powers, was being gradually cast into oblivion not because of her fail-

<sup>10</sup> J. B. Moore, *op. cit.*, pp. 179-180.

ure to observe it, but because of her inability to observe it under *force majeure*, exerted on her by the foreign Powers.

Now, the question may again be raised: To whom should be attributed the origination of the Open Door policy? As a matter of fact, the question has been raised and already answered in a previous article, in which we have dealt with the early practice of the principle. It is pertinent, however, to repeat here that, if it is admissible that the most favored nation treatment was an early expression of the Open Door principle, it was Great Britain who had first introduced the principle of equal treatment in China. It was also Great Britain who first coined the phrase, "the Open Door," as we have just shown. Much of the agitation for the "Open Door" was carried on by the British merchants in the treaty ports in China, and British press at home. On November 16, 1898, the British merchants in China passed a resolution, requesting the Government in England to enter into "a general agreement" with the interested Powers in order to guarantee for all nations the equality of commercial rights and privileges in China.<sup>11</sup> When Lord Beresford was passing through the United States after his trip to China, he suggested on many occasions that "some sort of understanding should exist between Great Britain and the United States for the mutual benefit of the two countries with regard to the future development of trade in China."<sup>12</sup>

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<sup>11</sup> Lord Charles Beresford, *The Break-up of China*, p. 473.

<sup>12</sup> "The problems connected with the future development of trade in China will be solved more easily if the powerful Anglo-Saxon races can come to some mutual understanding regarding them. As the interests of the United States and Great Britain are absolutely identical in China, an understanding must conduce to the benefit of both great nations, and certainly make for the peaceful solution of the difficulties. Both nations are essentially trading nations, neither want ter-

These proposals were made long before Secretary Hay dispatched his circular note, and must, therefore, have influenced him, it may be fairly inferred, in endeavoring to secure the adherence of the other Powers to the policy that he enunciated in the note.

It is now quite evident that the Open Door policy was British in origin. Unfortunately, however, Great Britain surrendered her leadership in the matter, as she, like all the voracious Powers in Europe at the end of the nineteenth century, marked out portions of Chinese territory as her own preserves. Her guiding statesmen, who had hitherto been anxious for the Open Door and the integrity of China, succumbed, in a moment of weakness, to the temptations of a leasehold from China and to the regime of territorial spheres. It is fortunate that, at this crisis, the policy found a new champion in the United States, who made it as her own by adoption, and has since fought with unusual vigor for its maintenance. It is perhaps due to this readiness and enthusiasm on the part of the United States to take upon herself the task of reviving the principle, when it was being abandoned, and of defending it, when it was menaced, that not infrequently she has been acclaimed as the Power who had originated the Open Door policy.<sup>13</sup>

The next point we should consider is whether or not it is correct to take the

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ritory, they both wish to increase their trade. With an equal opportunity throughout China, they would not only increase their trade but do much towards increasing the prosperity of the whole world."—Lord Charles Beresford, *The Break-Up of China*, pp. 446-447.

<sup>13</sup> "If the doctrine of the Open Door for commerce in China was British in its origin, Lord Salisbury's Government none the less acted wisely in allowing the American Government to make it their own by adoption—particularly as it had been seriously compromised while in charge of its original sponsors."—Josiah Joyce, *The Contemporary Review*, August, 1900, p. 183.

Open Door policy as one designed for the opening up of China. It cannot be too emphatically stated that the Open Door policy has nothing to do with the actual opening of the country. It does not mean, and it has never been intended to mean, that it is a policy which has as its object the throwing open of the entire country to foreign commerce, trade, residence, etc., without discrimination, or without limitation. Although the idea is frequently assumed, even by students of international affairs, who have made no special study of the subject, nothing is farther from the truth. If the assumption were true, the Open Door would be nothing less than a concerted policy among the Powers to demand the opening of China to their ruthless exploitation. While, as a matter of fact, the Open Door has been recognized, as we shall see, as a diplomatic and economic policy of the foreign Powers in China, which does not call for the opening of the country, but calls upon themselves not to close, in their respective territorial and economic spheres, the doors which China herself has, by treaty or otherwise, thrown open to foreign trade and commerce, and other legitimate forms of industrial and economic undertaking. In other words, the Open Door policy is an injunction, so to speak, against any sharp and discriminatory practice by any of the foreign Powers in China, who might close the field of trade and commerce, in her own spheres, to her own nationals, to the exclusion of those of the other Powers. A Japanese student of Chinese questions has keenly observed that the "Open Door merely negatives a differential treatment in favor of one or more foreign nations at the expense of all the others." "It does not necessarily imply a wide opening" of China, but it demands "an impartial,

even if narrow, opening for all nations.”<sup>14</sup>

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<sup>14</sup> K. Asakawa, *The Russo-Japanese Conflict*, p. 10. In an article in *Yale Review*, August, 1908 (p. 186). The same writer also said: “From the form of the phrase ‘open door,’ it is no wonder that its meaning is frequently misunderstood as a wide opening of a country to foreign enterprise. Such a policy would be disastrous to China. The width of the opening, however, does not enter into the technical definition of the term. So long as the opening of the country is, however narrow, *equally* wide to all foreign nations without discrimination, the ‘open door’ is maintained, even where there is a discrimination between her own citizens and those of other countries.”

## CHAPTER VIII

### The Open Door Policy Defined (Continued)

**H**AVING made clear what the Open Door policy is not, we are now in a position to proceed to consider what it is. In proceeding to do so, however, we must, first of all, take into consideration a few important factors or aspects of the policy, about which there has been a good deal of difference of opinion. Does the Open Door policy seek to preserve the territorial integrity of China? Is the policy compatible with the régime of spheres of interest? Is it compatible with special economic and industrial concessions given to some Powers in China and not to the others? Is the policy an economic policy only, or does it involve also political elements? For a clear understanding of the Open Door principle, of what it means and what it does not mean, of what it implies and what it does not imply—in short, for a clear definition of the scope of the policy, it is best to answer these questions.

First of all, does the Open Door policy seek to preserve the territorial integrity of China? This question may be best answered by asking another: Is the territorial integrity of China necessary to the execution of the Open Door policy? To this second question there can be one and only one answer compatible with the spirit of the policy and with the ways in which the policy must be practically carried out. This answer is that the maintenance of China's territorial integrity is absolutely essential to the carrying out of the Open Door policy. On



this point, however, opinions widely differ, and the negative side has been most eloquently defended by British statesmen and diplomatists. They argued, as it has been argued ever since, that the Open Door policy was synonymous with the policy of "open ports." And this policy of "open ports," as Sir William Harcourt pointed out, was not "a policy which involves or secures the integrity of China." "The policy of 'open ports,' as applied to Germany and to Russia is this: You may go and take Kiao-chow and Taliénwan or Port Arthur if you like; so long as you leave it open to us, and to all the rest of the world, we do not care whether you take it from China or not. That is the policy of 'open ports' as enunciated by Her Majesty's Government. It has no connection whatever with the integrity of China."<sup>15</sup> This was the typical opinion of the British statesmen some twenty or more years ago. Though it might be a valid view at the time when it was given, it is doubtful that it can hold good today.

What is the accepted interpretation of the Open Door policy in respect to the territorial integrity of China today? It is now generally believed and held to be true that only by the maintenance of China's territorial integrity can the preservation of the Open Door policy be assured. As far back as December 22, 1898, the British merchants in Foochow were far-sighted enough to see that "in order to keep the

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<sup>15</sup> The Parliamentary Debates, April 5, 1898, p. 243. It should be remembered that the British Government was then agitating for the Open Door; and in the same breath, it was also reserving the Yangtze Valley as the British sphere of interest, and leasing Weihai-wei as a setoff to Russia in Port Arthur and Taliénwan. In order to carry water on both shoulders, there was but one possible position for the British statesmen of responsibility to take: that the maintenance of the Open Door did not involve the maintenance of the integrity of China.

Open Door for the trade of all nations, it is necessary that the integrity of China should be preserved.”<sup>16</sup> And Secretary Hay was also careful to add, though in somewhat ambiguous language, that China’s integrity was a necessary condition to the upholding of the Open Door principle. And then, in all the international agreements which have been entered into by Japan, the United States, and the European Powers, for the purpose of maintaining the Open Door policy in China—the Anglo-German Agreement, the Anglo-Japanese Alliance treaties, the Franco-Japanese Convention, the Russo-Japanese Agreements, and the Root-Takahira and Lansing-Ishii “agreements” — the Contracting Parties took good care to place the preservation of China’s territorial integrity side by side with the maintenance of the Open Door policy. Admiral Mahan held the opinion that while “the approximate aim of the Open Door” was to preserve the external control over the Chinese markets, its real object was to arrest territorial encroachments in China. “To this (policy of the Open Door) the integrity of the Chinese Empire is a corollary. That integrity is the concern of the United States, or of any country asserting the Open Door, not as a matter of benevolence, but it is essential to free access to Chinese markets.”<sup>17</sup>

This is very well said, indeed. For, after all, the preservation of China’s territorial integrity is a problem that touches the vital interests of all Powers. There can be no denying that the Powers having the largest volume of trade with China will depend for their commercial interests upon the maintenance of the

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<sup>16</sup> Resolution by Foochow Chamber of Commerce, December 22, 1898. *The Break-up of China*, p. 479.

<sup>17</sup> A. T. Mahan, *The Interest of America in International Conditions*, pp. 183-184.

Open Door, and yet it ought to be plain even to the merest tyro of international politics that successful application of the policy must require the preservation of China's territorial integrity. It is evident that if China were partitioned, the leased territories would be virtually annexed by the Powers now holding them, and would pass from the ownership of China to the ownership of the annexing Powers. These Powers would *ipso facto* become legal owners of the territories, and would assume all sovereign rights over them. They would entertain no foreign interference, no consideration for the trade rights or privileges which the other nations might have had therein. The principle of the Open Door, in such a case, could no longer be applicable. Korea is the case in point. The Open Door was maintained, claimed to have been maintained, in Korea before the annexation by Japan in 1910. After the annexation, every door is closed—closed to merchants from the West, from China, and from all countries in the world, except Japan. If Japan should one day annex Manchuria, which she has claimed to be her sphere of interest, would there be any guarantee that she would not erect special tariff walls in protection of her own interests and in discrimination against those of the other Powers? If France should one day seize Yunnan Province and place it under her own administration, would she not make full use of her sovereign rights over the province and set up economic barriers favorable to her own interests and detrimental to those of the others? Indeed, it has been very well said, that "there is a marked difference between China establishing a tariff, and Japan or Russia establishing a tariff over a portion of China." "However high the Chinese

tariff may become, it will apply to all foreign nations alike. It will not, therefore, prove a barrier to American trade with China, any more than to Japanese, Russian, or German trade with China. Hence a tariff established by China herself equally applying to all nations alike will not shut the door to America any more than to any other country. But if China should be divided between nations, each nation would establish free trade within its colonies and then charge a tariff upon goods of other nations, and the trade of the United States with China would be destroyed.”<sup>18</sup> It can, therefore, be laid down almost as an axiom that the territorial integrity of China must be maintained in order to preserve the Open Door. Else, where could the policy be applied?

Having understood that China's territorial integrity is an absolute requisite for the maintenance of the Open Door policy, we may now ask if the regime of the spheres of influence or interest (the two terms being used here interchangeably) is at all compatible with the principle of the Open Door. On this question there is a wide difference of opinion. One view is that the two are totally incompatible with each other. On the other hand, there is quite an array of authorities who hold, or held, that just the opposite ought to be true. “The policy of ‘spheres of influence’ is not necessarily opposed to the policy of the ‘open

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<sup>18</sup> James W. Bashford, *China: An Interpretation*, pp. 439-440.

Another authority takes a similar view. The maintenance of the Open Door policy in turn “involves, as a means to that end, the preservation of the territorial sovereignty or integrity of China; for if that country be dismembered or partitioned into ‘spheres of interest’ or ‘influence,’ it might eventually fall a prey of the systematic commercial exploitation and exclusive protective systems of the several Powers exercising political influence or control in the regions acquired by them.” Amos S. Hershey, *The International Law and Diplomacy of the Russo-Japanese War*, p. 2.

door,'” said Dr. Paul S. Reinsch, in his book, *World Politics*, which was published some twenty or more years ago. “At present (that is, 1900), if we may interpret the declarations of the great Powers by their course of action, the term ‘sphere of influence’ in its most extended meaning refers to a region where a Power holds itself specially responsible for security of life and investment, and uses its political influence for the furthering of economic development. As long as freedom of opportunity is preserved within these spheres, as long as treaty ports are kept open and their number is gradually increased, the policy designated by the term ‘open door’ is practically in force, even though the policing of the empire may have been divided up among the Powers.”<sup>19</sup>

This is a view to which we cannot subscribe, despite our profound regard for its author. In the very nature of things, the Open Door policy and the regime of spheres of interest or influence are diametrically opposed to each other, for the simple reason that each seeks to create a status, commercial or political, which is opposed to that of the other. One has as its object the establishment of equal opportunity, while the other has as its object the creation of exclusive privileges. The very fact that a Power is interested in certain portions of China to the extent of marking them out as her sphere of influence or interest is clear indication that that Power means to exclude other Powers from participation in enterprises within such territories. The Frenchman cannot hope to have as much opportunity for economic enterprises in the Yangtze valley as the British, nor can the American ever expect “equal opportunity” in the genuine sense of the term in South Manchuria with the Japanese. The

<sup>19</sup> Paul S. Reinsch, *World Politics*, p. 184.

course of events in China in the last twenty years has given too many proofs of industrial and economic discriminations in such spheres to believe that the Open Door policy can be anything more than a mere fiction where the regime of territorial or economic spheres is maintained. Why were the Americans at one time debarred from building for the Chinese Government a ship-yard in Fukien province? Because Fukien has been marked out as a Japanese sphere of interest. Why should the Tien-tsin Pukow Railway be built as an Anglo-German joint enterprise? Because the northern end of the line traverses the former German sphere in China, while the southern end of the line enters into the British sphere. In order that neither one should trespass upon the preserve of the other, they decided upon the plan of joint enterprise, but separate engineering work in the construction of the railway. And, then, again, why did the magnificent scheme of neutralizing the Manchurian railways as proposed in 1910 by Secretary Knox of the United States, completely fail? Because the railway lines proposed for "neutralization" were found in the Russo-Japanese spheres of interest in North and South Manchuria, from which both Russia and Japan were anxious to exclude every foreign interest other than their own. Apparently, therefore, the Open Door policy and the spheres of interest or influence cannot exist side by side. The one or the other must give way. They are inconsistent terms, and they produce diametrically opposite effects and results. Dr. Reinsch was of the opinion that "as long as freedom of opportunity is preserved within these spheres, as long as treaty ports are kept open and their number is gradually increased, the policy designated by the term 'open door' is practically in force."

It is our opinion that in these spheres the treaty ports are kept open just because they are "treaty ports." The freedom of opportunity is not preserved, for there is none to preserve. Wherever there is a special sphere claimed by this or that Power, there is no equality of opportunity, either in name or in fact. Whenever there is no equality of opportunity, there is no Open Door. Each and every portion of Chinese territory, which is earmarked as a sphere of interest or influence of this or that Power is a denial of the Open Door and a limitation of the operation of the principle of equal opportunity. There can be no getting away from this obvious fact.

On the other hand, we must not overlook the fact, which we have emphasized before, that the Open Door policy, as it was generally understood at the end of the nineteenth or at the beginning of the twentieth century, was practically synonymous with the three proposals, which Secretary Hay announced in his circular of September 6, 1899; and inasmuch as Mr. Hay applied these proposals only to the leased territories and the economic spheres of the foreign Powers in China, it was a natural conclusion that the principle of Open Door was quite compatible with the existence of the spheres of interest. Besides, it was the contention of the British Government, then, that the maintenance of the Open Door policy had nothing to do with China's integrity. The very fact that Great Britain was agitating for the Open Door and taking territorial leases and demarcating economic spheres in China at one and the same time would lend strength to the opinion, then current among students of international affairs, that the principle of the former was not opposed to the creation of the latter. In his interpretation of the Open Door, how-

ever, Dr. Reinsch qualified his meaning by saying that he was considering "the declarations of the great Powers by their course of action." The declaration of the British Government was for one thing, and its course of action was for another. Dr. Reinsch, and others who had held similar views were, therefore, quite right at the time, so far as their interpretation of the Hay proposals and of the conduct of Great Britain, and possibly of the other European Powers then was concerned. It must also be confessed, however, that such an interpretation tends to limit the Open Door policy to the Hay proposals of 1899. For our purpose, we must interpret the Open Door policy in its latest and larger aspects, taking into consideration all the phases of development which it has apparently undergone.

Now, going still one step further, we may ask whether or not the possession by any one foreign Power, or group of Powers, or by their own nationals, of special interests and exclusive concessions in China is compatible with the Open Door policy, which, as has been generally known, aims at the establishment of real equality of opportunity for all nations. This question is one, which is closely related to that of spheres of interest or influence, and about which there is no unanimity of opinion. This lack of unanimous opinion on such a vital matter is, again, as is always the case, due to the lack of a clear and uniform understanding or definition of the scope of the Open Door policy. One group of authorities may maintain that the Open Door policy operates only in the field of foreign commerce and navigation in China, and another group hold the opinion that it is applicable to all economic undertakings by the foreign Powers or their nationals in China. Between the opinions of the



two groups, one can easily recognize the fact that the difference is one of interpretation as to the scope of the policy, or as to the spheres in which it is supposed to operate. The first group holds to a narrower view and confines the principles of the policy to those proposals which Mr. Hay made in his first diplomatic circular, and which, as we have seen before, have nothing to do but with trade and commerce, navigation, transportation, and tariff dues, in the leased territories and in the spheres of interest. A broader view is held by the second group of the Open Door policy, and it is quite clear that this group recognizes the fact that the Open Door of today is something more than the Hay proposals ever implied, and is applicable to all forms of economic activity by the foreign Powers in China. With this wide difference of opinion, it is apparently difficult to arrive at a uniform understanding as to the scope of the policy, the absence of which is largely responsible for its numerous infractions.

But the question which we have raised remains yet unanswered. Is the possession by any one Power, or group of Powers, or by their nationals, of special interests and exclusive concessions in China consistent and compatible with the Open Door policy? The question is not so easy to answer as to ask. On the one hand it seems to us almost a truism to say that each and every concession, that is exclusive and therefore monopolistic in nature, is a limitation, a relinquishment *pro tanto*, of the principles of the Open Door. In its simplest terms, the Open Door demands equal opportunity for trade, commerce, and other legitimate forms of economic activity, for all foreign Powers in China, while an exclusive concession—say, the concession for the construction of a certain railway line—

gives monopolistic, or at least preferential rights to the concessionaire, especially in the matters of engineering and supplying of materials. If a line is to be built under French supervision, by French money, and by French engineers, is it likely or unlikely that nothing but French materials and rolling stocks will be used? If the concession of a line is held by the British, or by the Americans, or by both jointly, is it thinkable that the British or the Americans would use German materials and employ German engineers in the construction? In such a case, there can be no room for the Open Door, for there is no equal opportunity to speak of. Equal opportunity, in all cases of exclusive concessions, will be a gift of generosity of each particular concessionaire, which is, however, a rather rare thing to find in international economic strife. On the other hand, the opinion is generally held that the Open Door policy, as has heretofore been seen, relates to matters of trade, tariff, and navigation only. "As thus defined it has nothing to do with non-alienation agreements with respect to particular areas, with the making of loans to China, or the obtaining of concessions for mining or for the building of railways or the construction and operation of other public works. Nor does it stand in the way of agreements with China that material for these works shall be imported from particular countries."<sup>20</sup> It is in this way that the inequality of opportunity inherent in the possession of "vested rights," "special interests," and "exclusive concessions" by one Power or

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<sup>20</sup> Westel W. Willoughby, *Foreign Rights in China*, p. 260. The same authority is of the opinion, however, that the Open Door principle is inconsistent with "special interests" and the establishment of spheres of interest. "Upon their face it would appear that these are contradictory ideas, and in fact, they have, in practice, proved to be such."—*Ibid.*

a few Powers in China is made to harmonize with the supposed operation of the Open Door principle. And right here we may add that it is largely due to this sort of attempt to reconcile the theory and the practice, which are obviously irreconcilable, that the Open Door policy has been reduced to a mere fiction.

Apropos of the incompatibility of special rights and concessions with the principles of the Open Door, there is yet one peculiar view that remains to be carefully considered. It is pointed out that every concession must be granted by the Chinese Government, be it exclusive or otherwise. Being bound by the most favored nation clauses provided for in all her commercial treaties and conventions with the foreign Powers, China cannot favor any particular nation or nations without violating the spirit, as well as the letter, of these provisions. And the Power or Powers, who are denied "equal opportunity" in an exclusive concession given to any particular Power, may on the strength of these most favored nation provisions demand from China concessions equally favorable and equally exclusive for themselves. In other words, in the tug-of-war of wringing concessions from China, each and every Power is on the same favorable ground to start out. As soon as the game is commenced, one Power is not supposed to have any opportunity for equal treatment in what the others have obtained from China. But, it is claimed that, even in such cases, the Open Door is maintained. What Open Door? it may be asked. The answer is that the Open Door in this case means, if it means anything at all, that the door is still open for the Powers to demand similar exclusive concessions from China! It was due to this erroneous notion that Count Sergius Witte, at the Portsmouth Peace

Conference, said that "no rights which were acquired lawfully from China within a limited space of territory, and which did not exclude a third party from securing similar advantages from her, could be considered a monopoly, or a violation of the principle of equal opportunity"<sup>21</sup>—the principle, it may be added, as Russia understood it. Paraphrased in plain language, what Count Witte said means, and can only mean, that so long as no one Power gets the monopoly of securing rights and concessions from China, and so long as the other Powers are free to do the same thing, there can be no violation of the Open Door policy!

That this is a dangerous view, though tacitly held by quite a few Powers in their dealings with and in China, is obvious. It will be seen at once that if the Open Door is made to mean "equal opportunity" for the Powers to demand concessions from China, which do not exclude others from securing similar advantages from her, then the policy is indeed a sinister one—so much so that it is worthy the condemnation of all honest people. Such a policy is sure to be disastrous to China, and to work ultimately for her dismemberment. It is tantamount to one of securing compensation for disadvantages or of setting up rival claims by one Power to counteract adverse demands on China by the other. It may revive once again, if it has ever been dead, the battle for concessions, which it is the very object of the Open Door policy, when truly interpreted, to prevent. It will contribute to the setting up of an infinite number of new spheres of interest or influence, if China still has more room for them. And finally, it would logically lead to the break-up of China, for, if one Power annexes some particular portion of the

<sup>21</sup> *Supra*, Chapter I.

Chinese territory, leaving at the same time enough for the others to seize upon, such annexation, if Count Witte's idea of the Open Door were carried to its logical conclusion, could not be considered as "a monopoly or a violation of the principle of equal opportunity." That such a conception of the Open Door is self-destruction can admit of no doubt. If the worthy Count had said that "rights lawfully acquired from China within a limited space of her territory could not exclude third parties from securing similar advantages from her *within the same limited space*, it would be more in accord with the true spirit of the Open Door policy. But the Count failed to specify, in the first place, whether these "rights" he had in mind were political, economic, or merely commercial; whether these "rights" acquired from China "within a limited space of her territory" would or would not exclude third parties from securing similar rights from her *within the same limited space*. The point cannot be too often or too strongly emphasized that the Open Door policy does not demand the throwing open of the whole or part of China to ruthless exploitation by the foreign Powers. Nor can the policy be made to mean that the Powers are to have "equal opportunity" to scramble for concessions in China, be they political, economic, or purely commercial.

In further elucidation of the questions which we have so far discussed, it may not be out of place to produce here extracts of a notable speech which Mr. Arthur J. Balfour made in the House of Commons more than twenty years ago, and in which he ventilated, in terms not likely to be misunderstood, what he thought of the Open Door policy vis-a-vis the questions of special concessions and economic spheres.

“In that embracing phrase,” said Balfour, when he was speaking on the question of the Open Door and equal treatment, “are contained, in my opinion, two sets of considerations dealing with two matters entirely separate—so separate that they cannot be dealt with by the same formulæ or pursued by the same policy. There is, in the first place, the question of what may be called equal trade opportunities, the right, that is to say, of importing goods (into China) at the same rate as any other nation imports goods, the same right of using railways as any other nation has. That evidently has nothing to do whatever with spheres of interest or influences. It is, or it ought to be, of universal application. We ought to have all over China the same right of importing and transporting goods that the French, the Germans, the Belgians, or the Americans have. There is a wholly different set of questions connected with concessions, and they cannot be treated in the same simple and obvious manner. Here it must be perfectly manifest to every one that the laws of nature themselves prevent us from having absolute equality of treatment between the different nationalities, because a concession must be given to some one, and when the some one got it, other people must be excluded. We have many concessions which are worked for the benefit of British interests. We have an enormous mineral concession in the north of China, which will be worked for the benefit of British interests. That is not equality of treatment. It is inequality inseparable from the nature of the concessions. Whenever concessions are made they must be given to somebody, and everybody else must be excluded. That inequality is inevitable, and it can-

not be avoided, and no complaint can be made of it.”<sup>22</sup>

In other words, Mr. Balfour believed, as so many others have believed since, that the Open Door policy had nothing to do with concessions, be they exclusive or not, political or otherwise: the policy merely dealt with equal treatment in the exportation, importation, and transportation of goods. Or, to use his own words once again, the policy sought to maintain “markets for British manufactures which should be under no disadvantage from hostile tariffs, or anything equivalent to hostile tariff.” In close resemblance to the views which we have already shown to be untenable was this of Mr. Balfour’s. That his official position might have invested his words with authority could make no difference as to the principle of the Open Door policy as it is or should be understood today. In fact, what Mr. Balfour said about concessions and equal treatment in China is of a nature to strengthen our contention rather than to weaken it. For, did he not point out that, as soon as some one got a concession from China, the others must be excluded? Did he not admit that Great Britain herself had a number of concessions in China, which were worked for British interests only? Did he not recognize that such concessions and the manner in which they were made to materialize were “not equality of treatment,” but “inequality inseparable from the nature of the concessions?” Did he not maintain that whenever concessions were made to some one, everybody else would be excluded, and that “that inequality is inevitable?” For our part, we must say that it is just because of this inequality of treatment, “inevitable and “inseparable” from the nature

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<sup>22</sup> The Parliamentary Debates, August 10, 1898, pp. 828-829.

of concessions—especially those which are monopolistic, that they are incompatible with the principle of the Open Door.

It is unnecessary to go further into arguments such as these, falsely reasoned as they are. But for the sake of further elucidation of the true meaning of the Open Door policy of today, it may not be useless to add that what Mr. Balfour had conceived to be the Open Door was nothing more than what Mr. Hay had proposed in his first diplomatic circular on the subject. In other words, the statesmen of those days conceived the Open Door policy to be nothing more than a tariff regime in China, under which the foreign Powers were to enjoy equal treatment in matters of trade and navigation. For our purpose, however, we must emphasize the fact once again that we must not look at the Open Door policy from a parochial standpoint of the Hay proposals, confining its application to matters of tariff, navigation, and transportation only, but from the standpoint where we can take into consideration all the latest developments of the principle. In the course of events, the Open Door policy, like everything else in the world, has developed and grown; and it has thus disclosed new and significant meanings which were not at first discerned. In considering the true meaning of the policy, we must keep in view its past as well as its present, and its future, if possible. To define the policy according to the nineteenth century notions would be to set back the hand of the clock which has timed every step of its development, and to ignore the most important international events of the last twenty or more years that have had the greatest bearing upon the policy. If the Open Door policy of today means nothing more than a



tariff regime, such as Mr. Hay's proposals and Mr. Balfour's viws seemed to have implied, then the policy is entirely superfluous, for China, in her tariff administration, is bound to a fixed rate by her existing treaties with all Powers, and it is therefore impossible for her to discriminate against the one or the other. Her tariff is uniform, as it has been, to all; and except Germany and Austria, whose commercial treaties have been abrogated and not yet renewed, China must accord equal treatment in matters of tariff duties to all countries in the world. If the Open Door policy means a uniform tariff only in the spheres of interest and in the leased territories, then it is again superfluous, for, throughout China, the administration of the customs tariff, though handled by foreign nations largely, is under the control of the Chinese Government. The foreign Powers, in spite of their imaginary walls of spheres of interest or influence and more tangible lines of leased territories, have neither the Power nor the right to use the Chinese tariff as a weapon of discrimination. If the Open Door aims at equal treatment in matters of transportation, then the policy is a complete failure, for it is a notorious fact that, except on the Chinese-owned and Chinese-controlled lines, of which the number is surprisingly small, discrimination on the foreign-controlled railways and steamers is a recognized practice. During the pre-war days, when Germany still enjoyed the most-favored-nation treatment in China, she was loath to accord the same treatment to the other Powers in her own spheres. German goods had prior right of transportation on the Shantung railways, and at cheaper rates too. And today, as ever, the Japanese, posing themselves as masters of Manchuria, do not hesitate to arrogate to themselves such

preferential treatment on the South Manchurian railways as will best serve their own interests in frank and open discrimination against those of the other Powers. Why is this discrimination possible? It is because of the special and exclusive concessions which the Germans had formerly enjoyed in Shantung, and those that Japan has been enjoying in Manchuria. Here, as nowhere else, the sinister character of the exclusive concessions, special interests, and economic spheres, and their obvious incompatibility with the fundamental principles of the Open Door come into broad daylight. It is a sad misfortune that the Powers, in the absence of a clear definition of the Open Door, have been contending for railway concessions, mining rights, or other industrial and economic privileges in China. It is a still greater misfortune that, while professing lip service to the Open Door policy, the Powers are not willing to surrender their rights and concessions of that nature. On July 13, 1898, in a telegraphic despatch of the British Minister in Peking, Lord Salisbury observed, apparently not without premonition, that in case should Great Britain come out second best in the battle of concessions then going on in China, she would be confronted with the serious danger of losing her traditional claim to equal treatment. "It does not seem," he said, "that the battle of concessions is going well for us, and that the mass of Chinese railways, if they are ever built, will be in foreign hands, is a possibility that we must face. One evil of this is a possibility that no orders for materials will come to this country. That we cannot help. The other evil is that by differential rates and privileges the managers of the railways may strangle our trade. This we ought to be able to prevent, by pressing that proper

provision for equal treatment be inserted in every concession." Apparently, the British Foreign Minister foresaw all the attendant evils of special concessions. Whether the remedy he suggested was adequate for the disease was best shown by the fact that in none of the railway concessions granted to Great Britain herself was equal treatment ever provided for.

Now, we have seen that the Open Door policy is not an American policy, in the sense that it is not of American origin; we have seen that it is not a policy which demands the wide opening of China to ruthless exploitation by foreign Powers; we have seen that the equality of opportunity which the policy calls for does not mean equality of opportunity for foreign Powers to wring concessions from China; and we have also seen that the policy is incompatible with the regime of spheres of influence or interest, but that it presupposes and seeks to preserve the integrity of China. A definition of the policy is comparatively easy, when it is given in the negative terms. But when we come to define the policy in positive terms and to say what it is rather than what it is not, we must not only remember its genesis, which we have already dealt with, but also keep in mind its further developments which we cannot take up. Keeping in mind what has been said before, we may, however, lay down here a simple and concise definition, which may serve as a working principle, with which we may test the infractions and violations of the policy, real or imaginary.

What then is the Open Door policy? This is our final question. The Open Door policy is, in a broad sense, an economic and diplomatic policy, officially agreed upon by the European Powers, Japan, and the United States, and has

as its object the maintenance of the territorial integrity of China and of equal opportunity in the country for commerce, trade investment, and all legitimate forms of economic and industrial enterprises for all nations in the world. The maintenance of China's territorial integrity is necessary to the maintenance of the Open Door policy. Without the one the other can not operate. Inasmuch as the policy seeks to establish real equality of opportunity and treatment for all Powers in China, any exclusive concession, any special right, or any special sphere, is a limitation and relinquishment *pro tanto* of the Open Door. This is more so, in view of the fact that the policy today means equal opportunity and treatment for all nations, not only in matters of trade and transportation, but also in those regarding investment and other forms of economic and industrial enterprise. This is clearly borne out by the instances found later in the Hsinmintun and Fakuman Railway dispute, in the Hukuang Railway Loan, in the Six-Power Reorganization Loan, in the new banking consortium, and in many other events of international importance in the Far East. And it is safe to say here that, if the principle of the Open Door were not involved in any of the above-mentioned events, the policy would be relatively inconsequential and practically meaningless today.

## VITA

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